

Exhibit V

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<p>1 APPEARANCES:</p> <p>2 On behalf of the Plaintiffs:</p> <p>3 Harry M. Roth, Esq.</p> <p>4 Cohen, Placitella & Roth, P.C.</p> <p>5 Two Commerce Square</p> <p>6 2001 Market Street, Suite 2900</p> <p>7 Philadelphia, Pennsylvania 19103</p> <p>8 (215) 567-3500</p> <p>9 Hroth@cpirlaw.com</p> <p>10 - and -</p> <p>11 Jared M. Placitella, Esq.</p> <p>12 Cohen, Placitella & Roth, P.C.</p> <p>13 127 Maple Avenue</p> <p>14 Red Bank, New Jersey 07701</p> <p>15 (732) 747-9003</p> <p>16 Jmplacitella@cpirlaw.com</p> <p>17 On behalf of the Defendant</p> <p>18 BASF Catalysts LLC:</p> <p>19 Eugene F. Assaf, Esq.</p> <p>20 Elizabeth Dalmut, Esq.</p> <p>21 Kirkland & Ellis LLP</p> <p>22 655 Fifteenth Street, Northwest, Suite 1200</p> <p>23 Washington, D.C. 20005</p> <p>24 (202) 879-5000</p> <p>25 Eugene.assaf@kirkland.com</p> <p>Elizabeth.dalmut@kirkland.com</p> <p>On behalf of the Defendants</p> <p>Cahill Gordon & Reindel LLP,</p> <p>Howard G. (Peter) Sloane,</p> <p>Ira J. Dembrow:</p> <p>Kyle A. Dolinsky, Esq. (Via phone)</p> <p>Pepper Hamilton, LLP</p> <p>3000 Two Logan Square</p> <p>Eighteenth and Arch Streets</p> <p>Philadelphia, Pennsylvania 19103</p> <p>(215) 981-4000</p> <p>Dolinskyk@pepperlaw.com</p>	<p>1 WITNESS INDEX</p> <p>2 PAGE</p> <p>3 EXAMINATION</p> <p>4 THOMAS W. BEVAN, ESQ.</p> <p>5 BY MR. ASSAF..... 6</p> <p>6 EXAMINATION</p> <p>7 BY MR. ROTH..... 387</p> <p>8 REEXAMINATION</p> <p>9 BY MR. ASSAF..... 419</p> <p>10 REEXAMINATION</p> <p>11 BY MR. ROTH..... 423</p> <p>12 FURTHER EXAMINATION</p> <p>13 BY MR. ASSAF..... 425</p> <p>14</p> <p>15 EXHIBIT INDEX</p> <p>16 EXHIBIT PAGE</p> <p>17 Defendants' Exhibit 288..... 263</p> <p>18 Defendants' Exhibit 289..... 264</p> <p>19 Defendants' Exhibit 290..... 267</p> <p>20 Defendants' Exhibit 291..... 17</p> <p>21 Defendants' Exhibit 291A..... 70</p> <p>22 Defendants' Exhibit 292..... 281</p> <p>23 Plaintiffs' Exhibit 1..... 411</p> <p>24 Plaintiffs' Exhibit 2..... 414</p> <p>25</p>
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<p>1 APPEARANCES CONTINUED:</p> <p>2 On behalf of the Defendant</p> <p>3 Thomas D. Halket:</p> <p>4 Eric Tunis, Esq. (Via phone)</p> <p>5 Herold Law, PA</p> <p>6 25 Independence Boulevard</p> <p>7 Warren, New Jersey 07059</p> <p>8 (908) 647-1022</p> <p>9 Etunis@heroldlaw.com</p> <p>10 On behalf of the Defendant</p> <p>11 Arthur Dornbusch:</p> <p>12 John D. Tortorella, Esq. (Via phone)</p> <p>13 John A. Boyle, Esq. (Via phone)</p> <p>14 Marino, Tortorella & Boyle PC</p> <p>15 437 Southern Boulevard</p> <p>16 Chatham Township, New Jersey 07928</p> <p>17 (973) 824-9300</p> <p>18 Jtortorella@khmarino.com</p> <p>19 Jboyle@khmarino.com</p> <p>20 On behalf of the Deponent,</p> <p>21 Thomas W. Bevan, Esq.:</p> <p>22 Kevin McDermott, Esq.</p> <p>23 Anthony Gallucci, Esq.</p> <p>24 McDermott & Hickey, LLC</p> <p>25 20525 Center Ridge Road, Suite 200</p> <p>Rocky River, Ohio 44116</p> <p>(216) 712-7452</p> <p>Kevin@mcdermotthickeylaw.com</p> <p>Ag@mcdermotthickeylaw.com</p> <p>ALSO PRESENT:</p> <p>Alex Cook, Videographer</p>	<p>1 THE VIDEOGRAPHER: We're on the</p> <p>2 record. Today's date is May 15, 2018. The</p> <p>3 time is 9:03 a.m.</p> <p>4 We're here in the case Kimberlee</p> <p>5 Williams, et al., versus BASF Catalysts LLC, et</p> <p>6 al., Case Number 11-CV-01754.</p> <p>7 The video operator is Alex Cook. The</p> <p>8 deposition is taking place at the law offices</p> <p>9 of Thompson Hine in Cleveland, Ohio.</p> <p>10 Counsel, could you please identify</p> <p>11 yourselves and state whom you represent.</p> <p>12 MR. McDERMOTT: For Tom Bevan,</p> <p>13 Kevin McDermott.</p> <p>14 MR. GALLUCCI: Anthony</p> <p>15 Gallucci on behalf of Kevin - or on behalf of</p> <p>16 Tom Bevan.</p> <p>17 MR. ROTH: I'm Harry Roth</p> <p>18 on behalf of the class plaintiffs.</p> <p>19 MR. PLACITELLA: Jared</p> <p>20 Placitella for the plaintiffs.</p> <p>21 MR. ASSAF: Gene Assaf for</p> <p>22 BASF.</p> <p>23 MS. DALMUT: Elizabeth</p> <p>24 Dalmut for BASF.</p> <p>25 MR. TORTORELLA: On the phone is</p>

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<p style="text-align: right;">Page 6</p> <p>1 John Tortorella for Arthur Dombusch. 2 MR. TUNIS: On the phone, 3 Eric Tunis on behalf of Tom Halket. 4 MR. DOLINSKY: On the phone, 5 Kyle Dolinsky on behalf of Cahill Gordon & 6 Reindel. 7 THOMAS W. BEVAN, ESQ. 8 of lawful age, called by the Defendants for 9 examination pursuant to the Federal Rules of Civil 10 Procedure, having been first duly sworn, as 11 hereinafter certified, was examined and testified 12 as follows: 13 EXAMINATION OF THOMAS W. BEVAN, ESQ. 14 BY MR. ASSAF: 15 Q Good morning, Mr. Bevan. 16 A Good morning. 17 Q Could you identify for me all of the times 18 you've testified under oath? 19 A Twice in this case in the last few months; in a 20 lawsuit against the Bureau of Workers' 21 Compensation, I think that was last year; and I 22 believe in a lawsuit against a former attorney 23 in my firm probably 12, 13 years ago. I think 24 that's all that I recall. 25 Q Okay. Any in court testimony?</p>	<p style="text-align: right;">Page 8</p> <p>1 A No. 2 Q Have you ever had your pro hac vice withdrawn? 3 A No. 4 Q Have you ever been censured by any bar 5 association? 6 A No. 7 Q Have you ever been sanctioned by any court? 8 A Sanctioned by a court? 9 Q Yeah. 10 A We had a case probably 15 years ago, it was a 11 Workers' Compensation appeal case in -- I 12 believe it was in Butler County, and I believe 13 there was a sanction order in that case. 14 Q Was it against your firm, or were you 15 personally involved? 16 A I wasn't personally involved in the case. I 17 don't handle the Workers' Comp cases typically. 18 So I don't recall how the order read. 19 Q Did you have involvement, though, in the -- 20 were you sanctioned by the court, Tom Bevan? 21 A I don't -- it was a sanction order for attorney 22 fees, and I don't recall how the order read. 23 Q And you didn't have any involvement in the 24 underlying offense? 25 A I was involved in my name would have been on</p>
<p style="text-align: right;">Page 7</p> <p>1 A In a hearing in the case against the former 2 attorney in our office, there was in court 3 testimony. 4 Q What -- 5 A It was not a trial. It was a hearing. 6 Q Was there a deposition as well? 7 A Yes. 8 Q And then where was that -- what was the name of 9 that case? 10 A I believe it was titled Bevan versus -- or 11 Bevan & Associates versus Powell. 12 Q And you've never had any criminal charges filed 13 against you? 14 A No. 15 Q What's your reputation for honesty within the 16 community? 17 A You would have to ask people in the community. 18 Q What do you think your reputation for 19 truthfulness is within the -- 20 A I would think it would be good. 21 Q Have you ever been accused of a crime? 22 A I guess a traffic ticket. 23 Q Other than that, nothing? 24 A Other than that, no. 25 Q Have you ever had your pro hac vice denied?</p>	<p style="text-align: right;">Page 9</p> <p>1 the pleadings, but I wasn't handling it at all. 2 Q Okay. You had no involvement in the pleadings 3 or the actions that led up to the sanction, it 4 just happened to be your firm? 5 A It was my firm and my name was on the 6 pleadings, yes. 7 Q Other than that, any other sanctions? 8 A Not that I can recall. 9 Q What was the -- what was the cause of the 10 sanctions by the Butler Court? 11 A The -- it was a Workers' Compensation death 12 claim that had been pending for some time is my 13 recollection. Our client's husband had died 14 from an asbestos-related cancer. We had filed 15 the case administratively. 16 During the time of its pending, the widow 17 had died, and so we filed the appeal on behalf 18 of the widow's estate for the accrued Workers' 19 Compensation death benefits, something we've 20 done successfully in numerous other 21 jurisdictions, and the court in Butler County 22 said we weren't allowed to do it and sanctioned 23 us for it. 24 It surprised us because we had won that 25 exact issue many times before in other</p>

<p style="text-align: right;">Page 10</p> <p>1 jurisdictions. We were sanctioned and we 2 appealed it and lost on appeal as well. 3 Q Was the reason an issue of law, or was it any 4 attorney -- allegation of attorney misconduct? 5 A It was an issue of law, at least in my view, as 6 to whether or not the widow's estate was able 7 to pursue the Workers' Compensation death 8 claim, the accrued benefits. And I think there 9 was an issue as to whether or not the widow's 10 estate had been opened or not. It had to do 11 with those issues, the best I can recall. 12 Q Was there an issue regarding whether your 13 client had actually signed and dated the 14 pleadings that you were submitting to the 15 court? 16 A I don't -- my recollection was that the client 17 had signed the Compensation claim form and then 18 died subsequently. Something along those 19 lines. I don't recall. 20 Q Was there a -- was it a Rule 11 sanction 21 against you for submitting a claim upon 22 documents that were not signed by your client? 23 Does that sound familiar? 24 A I don't recall. 25 Q You don't recall?</p>	<p style="text-align: right;">Page 12</p> <p>1 orders where we had won that issue in the past. 2 Q Okay. Maybe we'll look at the brief later and 3 see if we can refresh your recollection on 4 that. 5 Have you ever been a defendant in a 6 lawsuit? Other than the ones that you 7 mentioned with your former attorney. 8 A There was -- we had a -- twice we've had a 9 malpractice claim filed against the firm. 10 Q Okay. And in the litigation with your former 11 attorney, were you a defendant, were you the 12 plaintiff? 13 A We were the plaintiff. 14 Q Okay. So other than the two malpractice cases, 15 you have never been a defendant in a lawsuit? 16 A I don't recall at this time any other ones. 17 MR. McDERMOTT: Can we have a 18 clarification? Do you mean Mr. Bevan or the 19 firm, the Bevan Firm? 20 MR. ASSAF: Let me try it 21 both ways. 22 MR. McDERMOTT: All right. 23 Just wanted to clarify that. 24 Q What did you understand my question -- how were 25 you answering my question, Mr. Bevan?</p>
<p style="text-align: right;">Page 11</p> <p>1 A No. 2 Q We'll refresh your recollection a little later 3 on that. 4 A Sure. 5 Q Regarding the National Tire Workers lit -- 6 withdrawn. 7 Back to the sanction issue. And did you 8 end up paying the sanction? 9 A I think. There may have been a settlement, but 10 I don't recall. I assume, but I don't know for 11 sure. 12 Q You appealed to the appellate court and the 13 appellate court affirmed the sanction? 14 A Yes. 15 Q And then you sought certiorari from the Supreme 16 Court and the Supreme Court denied cert? 17 A I don't recall if we did that, took it to that 18 level or not. 19 Q And so in terms of you mentioned before that it 20 was an issue of law and that you had done it 21 many times, that argument would be in your 22 brief to the appellate court, correct, I mean 23 if that were the basis of your defense to the 24 sanction? 25 A I don't know. I recall attaching at some stage</p>	<p style="text-align: right;">Page 13</p> <p>1 A I'll answer it both ways, which I don't recall 2 any others other than those two. 3 Q Okay. 4 A That's all I can recall at this time. 5 Q Were you involved in a lawsuit -- withdrawn. 6 Bevan and Economus? 7 A Economus. 8 Q Economus. 9 Is that your former firm? 10 A Bevan & Economus was an office sharing 11 arrangement that involved my father and Dale 12 Economus. For my first several years of 13 practicing, I was an independent attorney that 14 practiced within that office sharing agreement. 15 I would not say that was a predecessor of Bevan 16 & Associates. Bevan & Associates was formed in 17 I believe 1995, I think. 18 Q And Bevan & Economus was the firm, though, that 19 you were working with when, for example, you 20 started representing Kimberlee Williams -- 21 A Yes. 22 Q -- in the talc cases? 23 A Yes. 24 Q Okay. So what was your arrangement at that 25 point, when you started on the talc cases?</p>

<p style="text-align: right;">Page 14</p> <p>1 A My arrangement was that I was self-employed and 2 I worked on asbestos cases with Dale Economus. 3 And initially I received a weekly draw, I 4 believe it was \$400 a week. And then not long 5 after that, I received a percentage of the fees 6 that were generated on those asbestos cases. I 7 believe it started out at 5 percent and worked 8 its way up. 9 Q When you started off representing plaintiffs in 10 the talc cases with Bevan & Economus, you 11 signed pleadings on behalf of -- 12 MR. McDERMOTT: Excuse me. 13 Economus. 14 Q Economus. Sorry. Withdrawn. 15 When you started off representing talc 16 plaintiffs when working with Bevan & Economus, 17 you signed pleadings on behalf of Bevan & 18 Economus, correct? 19 A I don't recall it. I'm sure I signed 20 pleadings. How it read, I'm not sure. It 21 probably said "Bevan & Economus" on there, I 22 imagine, in the signature section. 23 Q Well, you didn't have your own law office that 24 you were signing pleadings on behalf of for the 25 talc plaintiffs, did you?</p>	<p style="text-align: right;">Page 16</p> <p>1 A I would have been associated with Bevan & 2 Economus. It was an office sharing 3 arrangement. 4 Q So you understand that Bevan & Economus was 5 also a defendant in some litigation, don't you, 6 when you were there? 7 MR. ROTH: Objection to 8 form. 9 A I'm not sure. Maybe you could enlighten me and 10 give me -- refresh my recollection. 11 Q Have you heard of the National Tire Workers 12 Litigation Project? 13 A Yes. 14 Q In your last deposition, you seemed unclear of 15 that term. 16 A I was not -- 17 MR. ROTH: Objection to -- 18 A I was not unclear -- 19 MR. ROTH: -- form and 20 foundation. 21 A -- in the last deposition. If you want to show 22 me a point where I said I was unclear -- 23 Q Sure. 24 A -- please do so. 25 -----</p>
<p style="text-align: right;">Page 15</p> <p>1 MR. ROTH: Objection to 2 form. 3 A I'm not sure what that means, but I was a 4 self-employed attorney. I didn't have a law 5 firm. 6 Q You didn't have a law firm when you started 7 representing talc plaintiffs? 8 MR. McDERMOTT: Objection. 9 Asked and answered. 10 A I was a self-employed attorney. 11 Q And were you a self-employed attorney with 12 Bevan & Economus? 13 A I practiced within the office sharing of 14 Bevan -- 15 MR. McDERMOTT: Objection. 16 Asked and answered. 17 Q With respect to the Ohio Bar and the Ohio Bar 18 records from 1994, would you be listed as 19 associated with Bevan & Economus? Withdrawn. 20 Would you expect the Ohio Bar records to 21 be true and accurate regarding your association 22 with law firms? 23 A I don't know. 24 Q Okay. In 1994, what law firm, in any, were you 25 associated with?</p>	<p style="text-align: right;">Page 17</p> <p>1 (Defendants' Exhibit 291 was marked.) 2 ----- 3 Q Will you look at page 119 of day two of the 4 custodian deposition and read it to yourself? 5 MR. McDERMOTT: Hang on one 6 second, Mr. Assaf. 7 Let me just take a look at that, Tom, 8 please, before you do. 9 MR. ASSAF: Sure. 10 MR. McDERMOTT: Thanks, 11 Mr. Assaf. 12 There you go, Tom. 13 And what page, I'm sorry? 14 MR. ASSAF: You can start 15 at 119. 16 A I've read page 119. 17 Q Okay. Does that refresh your recollection as 18 to whether you had any recollection our last 19 time regarding the National Tire Workers 20 Litigation Project? 21 A I believe I said I knew what it was. 22 Q Okay. 23 A Yes. 24 Q Did you work with the National Tire Workers 25 Litigation Project in any way?</p>

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<p>1 A I believe -- at the bottom of that page, I 2 called the Stemple law firm one time when I was 3 a law clerk, probably in 1989, realized that 4 they had no idea what was going on and no 5 involvement. And that was the only involvement 6 I had starting in May of 1989 with the Stemple 7 firm. 8 Q And in 1989, Bevan & Economus was also a 9 defendant with the Stemple law firm, correct? 10 MR. McDERMOTT: Objection. No 11 foundation. 12 A I don't -- I don't know. I started in May of 13 1989. I have heard that there was a lawsuit 14 that was filed, I believe by Raymark. And that 15 was certainly -- I don't know the details of 16 it, other than I'm sure Bevan & Economus and/or 17 Dale Economus or Keith Bevan were dismissed 18 from that lawsuit, because by May of 1989, that 19 wasn't going on. 20 So you said 1989. I don't know when that 21 involvement -- 22 Q Okay. So when -- 23 MR. McDERMOTT: Move to strike. 24 Q When you start -- 25 MR. ASSAF: Move to strike</p>	<p>1 Q Have you ever reviewed it? 2 A No. 3 Q Did you ever review any of the allegations in 4 the lawsuit with anyone? 5 A No. 6 Q Did you have any understanding of whether any 7 doctors were sued? 8 A I don't know that. 9 Q Do you know whether you had any relationship 10 with any of the doctors in the Raymark versus 11 Stemple lawsuit? 12 MR. McDERMOTT: Objection. 13 MR. ROTH: Objection. 14 A I don't know anything about the doctors in the 15 lawsuit. So I don't know. 16 Q Have you ever worked with Dr. Gelbard? 17 A I've seen Dr. Gelbard's reports. I've never 18 spoken with her or done anything with her other 19 than review some of her reports. 20 Q With respect to talc plaintiffs, have you used 21 Dr. Gelbard's reports? 22 A No. 23 Q Have you used any reports for Dr. Rao? 24 A If you're talking -- which Dr. Rao? 25 Q Let's find out. Dr. Rao.</p>
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<p>1 your answer? 2 MR. McDERMOTT: Both. Question 3 and answer. 4 MR. ASSAF: Basis? 5 MR. McDERMOTT: Foundation. 6 You're asking hypotheticals, Counselor. Get to 7 the facts. 8 Q Was the Raymark versus Stemple a hypothetical 9 case, in your mind? 10 A I don't really know anything about it. 11 Certainly I've heard about it, but as of May of 12 1989, that case did not exist, as far as I 13 know. 14 Q Did you ever have any discussions with lawyers 15 for Bevan & Economus regarding the Stemple, the 16 Raymark versus Stemple litigation? 17 A I recall either Dale Economus or my father, 18 Keith, or both of them telling me that Raymark 19 had filed a suit, they were very unhappy that 20 they got named in a suit, but that they were 21 dismissed from the suit. 22 Q And when your father or Mr. Economus told you 23 that, did they tell you that they had been sued 24 for fraud? 25 A I don't recall what the lawsuit was about.</p>	<p>1 Are there multiple Dr. Raos? 2 A I know of two. 3 Q Okay. Which two? 4 A There was B. Rama Rao, who was associated with 5 Stemple, because I've seen his reports, and 6 there's a L.C. Rao, who's a pulmonologist and B 7 reader in the Cleveland area. 8 Q With regard to B. Rama Rao, have you used those 9 reports with respect to any talc litigation 10 plaintiffs? 11 A No. 12 Q And what about Dr. Krishan Bharadwaja? 13 A I believe that name was on the same reports as 14 B. Rama Rao and -- yes. So I've heard that 15 name before. 16 Q And have you used that doctor with respect to 17 any talc plaintiff? 18 A No. 19 Q Have you ever heard the name Dr. Ray Harron? 20 A Yes. 21 Q Have you used that doctor with respect to any 22 talc plaintiffs? 23 A I've used him as a B reader, yes. 24 Q Do you have any understanding of whether 25 Dr. Harron was ever sanctioned or censured by</p>

<p style="text-align: right;">Page 22</p> <p>1 any court?</p> <p>2 A I believe sometime in approximately 2004. I</p> <p>3 don't know if he was sanctioned, but he</p> <p>4 withdrew from the litigation and we didn't use</p> <p>5 him again after that.</p> <p>6 Q Do you have any understanding of why he</p> <p>7 withdrew from litigation?</p> <p>8 A I don't know all the details.</p> <p>9 Q Do you know any details?</p> <p>10 A My recollection is it had to do with silicosis</p> <p>11 cases in Texas and x-rays that he had reviewed</p> <p>12 and came to different conclusions on either the</p> <p>13 same person or same x-ray. That was my</p> <p>14 recollection of it.</p> <p>15 Q Did you have any role in trying to help</p> <p>16 Dr. Harron in any of his legal troubles?</p> <p>17 A No.</p> <p>18 Q Do you think that Dr. Harron's legal issues had</p> <p>19 anything to do with legislation that was later</p> <p>20 passed in Ohio?</p> <p>21 MR. McDERMOTT: Objection.</p> <p>22 Vague.</p> <p>23 A I don't recall that name coming up during the</p> <p>24 legislative process.</p> <p>25 MR. McDERMOTT: Move to strike.</p>	<p style="text-align: right;">Page 24</p> <p>1 A I believe so.</p> <p>2 Q Was it accurate?</p> <p>3 MR. McDERMOTT: Objection.</p> <p>4 What affidavit are you talking about,</p> <p>5 Counselor?</p> <p>6 Q How many affidavits did you submit in this</p> <p>7 case, Mr. Bevan?</p> <p>8 A I don't recall.</p> <p>9 Q Have you submitted more than one?</p> <p>10 A I don't recall.</p> <p>11 MR. ROTH: Objection.</p> <p>12 A I know -- I know you showed me one at the</p> <p>13 last -- or other counsel showed me one at the</p> <p>14 last deposition. I don't recall the --</p> <p>15 Q Well, let's start this way: In any affidavit</p> <p>16 that you've submitted in this case, are you</p> <p>17 aware of it being inaccurate?</p> <p>18 A Am I aware of being inaccurate?</p> <p>19 Q Correct.</p> <p>20 A No.</p> <p>21 Q Okay. No matter how many affidavits you</p> <p>22 submitted, you believe that they are accurate?</p> <p>23 A I--</p> <p>24 MR. ROTH: Objection.</p> <p>25 A I believe they're accurate.</p>
<p style="text-align: right;">Page 23</p> <p>1 Q Were you involved at all in House Bill 292?</p> <p>2 A Yes.</p> <p>3 Q Did you oppose House Bill 292?</p> <p>4 A Yes.</p> <p>5 Q Did you attend any hearings regarding House</p> <p>6 Bill 292?</p> <p>7 A Yes.</p> <p>8 Q Did any of the hearings that you attended</p> <p>9 include a discussion of Dr. Ray Harron and the</p> <p>10 diagnosis that he gave?</p> <p>11 A I do not recall that being discussed at the</p> <p>12 time.</p> <p>13 Q Do you agree that it's important for attorneys</p> <p>14 when signing pleadings to be truthful and</p> <p>15 accurate with the Court?</p> <p>16 A Yes.</p> <p>17 Q And do you believe that it's important not to</p> <p>18 mislead litigants or judges when attorneys are</p> <p>19 signing pleadings?</p> <p>20 A Yes.</p> <p>21 Q When an attorney's submitting an affidavit, do</p> <p>22 you believe that it's important to be accurate</p> <p>23 with the Court?</p> <p>24 A Yes.</p> <p>25 Q Did you submit an affidavit in this case?</p>	<p style="text-align: right;">Page 25</p> <p>1 Q Let me show you an affidavit previously marked</p> <p>2 as exhibit -- Defendants' Exhibit 145.</p> <p>3 MR. McDERMOTT: Tom, let me</p> <p>4 just take a look at it and make sure we're not</p> <p>5 having apples and oranges.</p> <p>6 Okay. Thanks so much, Mr. Assaf.</p> <p>7 Q Now, you understood -- have you had a moment to</p> <p>8 review this, Mr. Bevan?</p> <p>9 A Sure.</p> <p>10 Q You understood that it was being submitted to a</p> <p>11 federal court, correct?</p> <p>12 A Yes.</p> <p>13 Q And you understood that it was being submitted</p> <p>14 in support of a motion for class certification,</p> <p>15 correct?</p> <p>16 A I don't know what it was being submitted --</p> <p>17 what the purpose of it was, but the affidavit</p> <p>18 says what it says.</p> <p>19 Q Well, how did it come that you did an</p> <p>20 affidavit?</p> <p>21 A I talked --</p> <p>22 MR. ROTH: Objection.</p> <p>23 Q You can answer.</p> <p>24 A I talked to people from, and I forget who it</p> <p>25 was, from the Placitella firm, and they</p>

<p style="text-align: right;">Page 26</p> <p>1 prepared a draft, I made some changes to the 2 draft, and then I signed it. 3 Q Did you keep the draft that you originally got 4 from the Placitella firm? 5 A I don't know. 6 Q Well, in our previous discussion, we asked you 7 about your email retention policies, right? 8 A Yes. 9 Q And I think -- well, let me ask you: Since the 10 beginning of this case, have you deleted emails 11 regarding the Williams case? 12 A I don't think so. 13 Q Okay. So since January of 2018, have you 14 deleted any emails that you received from the 15 Placitella firm? 16 A I don't believe so. 17 Q Okay. So you would have it in your email, if 18 you received it by email? 19 A I assume. 20 Q Okay. And did you mark up a draft physically, 21 or did you do it on your computer? 22 MR. ROTH: Objection to 23 form. 24 A I don't recall. I don't know. 25 Q Did you talk to anybody about your changes?</p>	<p style="text-align: right;">Page 28</p> <p>1 Mr. Assaf, we will agree to a 502(d). 2 MR. ASSAF: Sure. 3 Q You can answer. 4 MR. McDERMOTT: Continuing 5 objection to this line of questioning. 6 A The number 2,653 was a number that was arrived 7 at by me and my partner, Pat, based on the 8 review of our client data and based on the 9 parameters of -- and I believe it's described 10 in here. The parameters of what the class 11 certification, what it says here. 12 Q Okay. Did they have a different number in 13 there when you received it? 14 MR. ROTH: Objection. 15 A It may have been a blank number. I'm not sure, 16 but I know we went through our data numerous 17 times and finally came up with that number, 18 2,653. 19 MR. McDERMOTT: Continuing 20 objection to this line of questioning. 21 Q Okay. And when you said "based on the 22 parameters," the parameters are in paragraph 3, 23 correct? 24 A I think so, yes. 25 Q So paragraph 3, what did you understand the</p>
<p style="text-align: right;">Page 27</p> <p>1 A I believe, but I don't -- whatever changes I 2 made, I think it just had to do with a number, 3 I think, that's down here. 4 Q Okay. I'll talk to you about that. What 5 number? 6 MR. ROTH: I'm going to 7 object to any questions about conversations 8 with -- between Mr. Bevan and lawyers from the 9 Cohen, Placitella & Roth firm. 10 MR. McDERMOTT: I'll join that 11 objection. 12 MR. ROTH: This is of 13 course -- in the order, those are privileged. 14 A 2,653. 15 Q Okay. Was that a number -- 16 MR. ROTH: Objection. I 17 think I'm actually going to instruct you not to 18 answer. 19 THE WITNESS: Okay. 20 MR. ROTH: If I can. 21 Q Did the plaintiffs provide you with that 22 number, or did you provide that number to them? 23 A The number -- 24 MR. ROTH: Same objection. 25 Excuse me.</p>	<p style="text-align: right;">Page 29</p> <p>1 parameters to be for the number that you were 2 searching for to give to the Court in an 3 affidavit? 4 A These were clients that we represented where we 5 filed a lawsuit against BASF's predecessors and 6 had either settled those suits or dismissed 7 them and they worked at sites where we believed 8 that they had exposure to Eastern Magnesia Talc 9 product. 10 Q Really? So could you turn to paragraph 3 and 11 tell me where it is in the parameters that you 12 understood that it would include people who 13 worked at sites who never filed lawsuits? 14 MR. ROTH: It doesn't say 15 that. Excuse me. Objection. 16 Can I have the last answer read back, 17 please. 18 ----- 19 (Requested portion of the record was read.) 20 ----- 21 MR. ROTH: Right. 22 Objection. Move to strike the question. 23 Without foundation. 24 MR. McDERMOTT: I join in that 25 objection. No foundation, misleading.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q You can answer, Mr. Bevan.</p> <p>2 MR. ROTH: No, I'm</p> <p>3 instructing you not to answer.</p> <p>4 A I'm not sure I understand what your question</p> <p>5 is, so maybe --</p> <p>6 MR. McDERMOTT: Continuing</p> <p>7 objection to this.</p> <p>8 Q The parameters that you -- the parameters that</p> <p>9 you were looking at included people who had</p> <p>10 voluntarily dismissed or terminated their</p> <p>11 lawsuit, correct? That's A.</p> <p>12 A I'm reading. You read that correctly.</p> <p>13 Q Or B, had their lawsuit involuntarily</p> <p>14 dismissed, correct?</p> <p>15 A Yes.</p> <p>16 Q Okay. Does it have anything to do with sites</p> <p>17 where people worked?</p> <p>18 A Well, it indicates in the proceeding prior to</p> <p>19 A, "filed a lawsuit against BASF." Of course I</p> <p>20 assume that to include Eastern Magnesia Talc or</p> <p>21 any of its other names.</p> <p>22 And the way we filed our cases during</p> <p>23 this relevant time frame was in bulk master</p> <p>24 consolidated complaints. So, for instance, we</p> <p>25 would have -- for example, we would have U.S.</p>	<p style="text-align: right;">Page 32</p> <p>1 the last -- turn your attention to page 115.</p> <p>2 MR. McDERMOTT: Mr. Assaf, in</p> <p>3 the future, before you hand the witness a</p> <p>4 document, I'd like to look at it, please.</p> <p>5 MR. ASSAF: Well, I think</p> <p>6 you have a copy.</p> <p>7 MR. McDERMOTT: I don't have a</p> <p>8 copy.</p> <p>9 MR. ASSAF: You do. It's</p> <p>10 sitting right in front of you.</p> <p>11 MR. McDERMOTT: I want to make</p> <p>12 sure that my copy is accurate because two times</p> <p>13 it hasn't been accurate, all right?</p> <p>14 MR. ASSAF: The</p> <p>15 deposition's not accurate?</p> <p>16 MR. McDERMOTT: No, the copy</p> <p>17 that has been furnished to me. So show it to</p> <p>18 me first before you show it to the witness.</p> <p>19 That's how you do things up in Ohio.</p> <p>20 There you go, Tom.</p> <p>21 Q Let's try it this way, Mr. Bevan. I'm going to</p> <p>22 give you what's been previously marked as</p> <p>23 exhibit -- or what's been premarked as</p> <p>24 Defendants' Exhibit 244, and I'll give it to</p> <p>25 counsel too, because I think I'm going to be</p>
<p style="text-align: right;">Page 31</p> <p>1 Steel people mixed into the same complaint as</p> <p>2 BFGoodrich people.</p> <p>3 Now, we didn't intend to file or pursue a</p> <p>4 case against BASF, against -- or its</p> <p>5 predecessors, on the U.S. Steel cases. We were</p> <p>6 intending to do it on the Goodrich cases. So</p> <p>7 that's how I interpreted that and came up with</p> <p>8 that number of 2,653 cases.</p> <p>9 Q Where is there in the definition a reference to</p> <p>10 people who worked at locations?</p> <p>11 A It's not defined one way or the other, but we</p> <p>12 weren't pursuing an Eastern Magnesia Talc case</p> <p>13 for a site where our client would not have had</p> <p>14 any exposure to Eastern Magnesia Talc.</p> <p>15 Q How would a Court know that you were including</p> <p>16 in the definition people who worked at a</p> <p>17 facility?</p> <p>18 A Because it says it's a lawsuit against BASF.</p> <p>19 Q And where -- did you include in your 2,653</p> <p>20 number those clients who could have filed but</p> <p>21 didn't file?</p> <p>22 A No.</p> <p>23 Q You didn't?</p> <p>24 A No.</p> <p>25 Q Okay. Could you pull open your deposition from</p>	<p style="text-align: right;">Page 33</p> <p>1 using this today. Okay.</p> <p>2 MR. ASSAF: So this is</p> <p>3 Defendants' Exhibit 244, Counsel. Take a</p> <p>4 moment to recognize it and see if you have any</p> <p>5 objections to it in terms of authenticity.</p> <p>6 MR. McDERMOTT: Let's go off</p> <p>7 the record, please.</p> <p>8 THE VIDEOGRAPHER: Off the record.</p> <p>9 The time is 9:36.</p> <p>10 -----</p> <p>11 (Discussion held off the record.)</p> <p>12 -----</p> <p>13 THE VIDEOGRAPHER: We're back on</p> <p>14 the record. The time is 9:37.</p> <p>15 MR. McDERMOTT: Excuse me. I'm</p> <p>16 just going to interpose an objection to</p> <p>17 document Exhibit 244. Is that correct?</p> <p>18 MR. ASSAF: That's correct.</p> <p>19 MR. McDERMOTT: This is the</p> <p>20 deposition of Thomas Bevan given on April 5,</p> <p>21 2018 in the Kimberlee Williams versus BASF</p> <p>22 Catalysts case, is that correct, and I'm</p> <p>23 looking at -- I've been given pages 63</p> <p>24 through --</p> <p>25 MR. ASSAF: No, you've been</p>

<p style="text-align: right;">Page 34</p> <p>1 given the entire --</p> <p>2 MR. McDERMOTT: No, I have not</p> <p>3 been given the entire deposition, I've been</p> <p>4 given pages 63 through 131. Don't tell me what</p> <p>5 I've been given. There is no errata sheet in</p> <p>6 this exhibit.</p> <p>7 MR. ASSAF: Okay. No.</p> <p>8 You've been given day two, the entirety of day</p> <p>9 two of the deposition.</p> <p>10 MR. McDERMOTT: I'm</p> <p>11 identifying --</p> <p>12 MR. ASSAF: You've been</p> <p>13 given --</p> <p>14 MR. McDERMOTT: -- the pages of</p> <p>15 what --</p> <p>16 MR. ASSAF: You have been</p> <p>17 given --</p> <p>18 MR. McDERMOTT: -- I have been</p> <p>19 given.</p> <p>20 MR. ASSAF: -- day two of</p> <p>21 the deposition.</p> <p>22 MR. McDERMOTT: Don't raise</p> <p>23 your voice. I've been given the pages I just</p> <p>24 outlined.</p> <p>25 MR. ASSAF: Correct.</p>	<p style="text-align: right;">Page 36</p> <p>1 with Eastern Magnesia Talc or had their claims</p> <p>2 dismissed against Eastern Magnesia Talc. And</p> <p>3 they were at sites where there was a high</p> <p>4 likelihood of Eastern Magnesia Talc exposure.</p> <p>5 I believe those were the criteria that we were</p> <p>6 looking at."</p> <p>7 Question, "So the figure 2,653 includes</p> <p>8 clients who did file and clients who could have</p> <p>9 filed?"</p> <p>10 "Objection. Form and foundation."</p> <p>11 Answer, "I believe so, yes."</p> <p>12 Do you see that?</p> <p>13 A Yes.</p> <p>14 Q Is that testimony an error?</p> <p>15 A To the extent that it says "and/or could have</p> <p>16 filed suit against Eastern Magnesia Talc," I</p> <p>17 went back and checked and I do not believe that</p> <p>18 number of 2,653 includes people who could have</p> <p>19 filed suit against Eastern Magnesia Talc, it</p> <p>20 only included those that had in fact filed suit</p> <p>21 against Eastern Magnesia, and I believe that's</p> <p>22 what I indicated on the errata sheet.</p> <p>23 Q When did you go back and check that?</p> <p>24 A When I reviewed -- at the time when I reviewed</p> <p>25 the deposition transcript.</p>
<p style="text-align: right;">Page 35</p> <p>1 MR. McDERMOTT: All right. And</p> <p>2 there is no errata sheet on this. It is</p> <p>3 incomplete.</p> <p>4 MR. ASSAF: Do you have an</p> <p>5 errata sheet?</p> <p>6 MR. McDERMOTT: I do not.</p> <p>7 MR. ASSAF: Okay.</p> <p>8 BY MR. ASSAF:</p> <p>9 Q Well, let's --</p> <p>10 MR. McDERMOTT: Apparently you</p> <p>11 don't either.</p> <p>12 Q Okay. Mr. Bevan, could you turn to page 114?</p> <p>13 A Yes.</p> <p>14 Q It says, Question, "Further down in paragraph</p> <p>15 6, this is at the very bottom, you see the</p> <p>16 reference to 2,653 Bevan Law Firm clients who</p> <p>17 would meet the proposed class definition?"</p> <p>18 Answer, "Yes."</p> <p>19 "What documents or data were used to</p> <p>20 arrive at the figure of 2,653 Bevan Law Firm</p> <p>21 clients?"</p> <p>22 Answer, "I believe they were clients that</p> <p>23 had filed suit against Eastern Magnesia Talc</p> <p>24 and/or could have filed suit against Eastern</p> <p>25 Magnesia Talc and either settled their claims</p>	<p style="text-align: right;">Page 37</p> <p>1 Q Prior to reviewing the deposition transcript,</p> <p>2 did anybody raise that issue with you?</p> <p>3 MR. McDERMOTT: Objection.</p> <p>4 A I don't --</p> <p>5 MR. McDERMOTT: Don't answer</p> <p>6 that.</p> <p>7 Q Definitely answer that question.</p> <p>8 MR. McDERMOTT: That's</p> <p>9 attorney-client privilege. Don't answer that</p> <p>10 question.</p> <p>11 MR. ASSAF: Any basis for</p> <p>12 changing sworn testimony is not attorney-client</p> <p>13 privilege, my friend.</p> <p>14 MR. McDERMOTT: Listen, I'm</p> <p>15 not your friend, number one. Number two, the</p> <p>16 objection stands.</p> <p>17 MR. ASSAF: Let's get the</p> <p>18 judge on the phone.</p> <p>19 Go off the record.</p> <p>20 THE VIDEOGRAPHER: Off the</p> <p>21 record. The time is 9:40.</p> <p>22 -----</p> <p>23 (Off the record.)</p> <p>24 -----</p> <p>25 (Telephone call.)</p>

<p style="text-align: right;">Page 38</p> <p>1 -----</p> <p>2 JUDGE RIVERA-SOTO: Good morning.</p> <p>3 Roberto Rivera-Soto speaking.</p> <p>4 MR. ASSAF: Good morning,</p> <p>5 your Honor. This is Gene Assaf and I'm here</p> <p>6 with a number of lawyers at the Attorney Bevan</p> <p>7 deposition.</p> <p>8 JUDGE RIVERA-SOTO: Ah. Mazel</p> <p>9 Tov, as we say in Puerto Rico.</p> <p>10 MR. ASSAF: Well, thank</p> <p>11 you, your Honor.</p> <p>12 JUDGE RIVERA-SOTO: How is</p> <p>13 everyone this morning?</p> <p>14 MR. ASSAF: I think</p> <p>15 everybody is very well. We just started.</p> <p>16 JUDGE RIVERA-SOTO: Okay.</p> <p>17 MR. ASSAF: I think we</p> <p>18 need a little guidance.</p> <p>19 JUDGE RIVERA-SOTO: Okay.</p> <p>20 MR. ASSAF: There's a --</p> <p>21 as you know, Mr. Bevan previously sat as a</p> <p>22 document custodian and in a prior deposition</p> <p>23 regarding an affidavit that he had submitted to</p> <p>24 the Court for class certification.</p> <p>25 He was -- he said in the affidavit to the</p>	<p style="text-align: right;">Page 40</p> <p>1 thing or a bad thing?</p> <p>2 MR. McDERMOTT: I was going to</p> <p>3 say I think it's a good thing for most people.</p> <p>4 JUDGE RIVERA-SOTO: Okay.</p> <p>5 MR. McDERMOTT: My wife would</p> <p>6 say so. And I want to thank you for taking our</p> <p>7 phone call.</p> <p>8 JUDGE RIVERA-SOTO: I'm happy to</p> <p>9 do it.</p> <p>10 MR. McDERMOTT: Mr. Assaf is</p> <p>11 incorrect in a couple of ways. First of all,</p> <p>12 he's handed Mr. Bevan, my client, a deposition</p> <p>13 that doesn't contain the errata sheet, and so</p> <p>14 the document is incomplete. Okay. And so the</p> <p>15 questions, which have kind of -- a little bit</p> <p>16 I've objected to on those grounds for lack of</p> <p>17 foundation and accuracy.</p> <p>18 Also, two, he's begun to ask questions</p> <p>19 about what I believe could have been</p> <p>20 attorney-client privilege. I really don't</p> <p>21 understand the ambit of the questions.</p> <p>22 If he would produce the errata sheet and</p> <p>23 we would have a complete document, I think that</p> <p>24 he could then question Mr. Bevan accurately and</p> <p>25 fairly. That's all I'm asking.</p>
<p style="text-align: right;">Page 39</p> <p>1 Court that there were 2,653 people who met the</p> <p>2 class definition.</p> <p>3 In his deposition as a document</p> <p>4 custodian, he said that that 2,653 included</p> <p>5 clients who filed and clients who could have</p> <p>6 filed. He then after that deposition did an</p> <p>7 errata sheet that clarifies that it doesn't</p> <p>8 include the could have filed.</p> <p>9 I think I'm entitled to ask him why he</p> <p>10 did the errata sheet, what caused him, whether</p> <p>11 there were any conversations regarding that,</p> <p>12 and there's an instruction for privilege. But</p> <p>13 my understanding is that when a witness does an</p> <p>14 errata sheet and has changes to sworn</p> <p>15 testimony, that one can inquire as to the basis</p> <p>16 for those changes and what conversations caused</p> <p>17 them, because it's just like a witness being on</p> <p>18 the stand.</p> <p>19 MR. McDERMOTT: Are you done,</p> <p>20 Mr. Assaf?</p> <p>21 MR. ASSAF: Yes.</p> <p>22 MR. McDERMOTT: Judge, this is</p> <p>23 Attorney Kevin McDermott. You don't know me,</p> <p>24 I'm just a small --</p> <p>25 JUDGE RIVERA-SOTO: Is that a good</p>	<p style="text-align: right;">Page 41</p> <p>1 JUDGE RIVERA-SOTO: Well, and let</p> <p>2 me just stop you there for a moment.</p> <p>3 MR. McDERMOTT: Sure.</p> <p>4 JUDGE RIVERA-SOTO: Mr. Assaf.</p> <p>5 MR. ASSAF: Yes.</p> <p>6 JUDGE RIVERA-SOTO: Do you have</p> <p>7 the errata sheet handy?</p> <p>8 MR. ASSAF: Not only do I</p> <p>9 not have it, your Honor, but I'm seeing emails</p> <p>10 and texts where nobody at Kirkland has it.</p> <p>11 Now, maybe --</p> <p>12 JUDGE RIVERA-SOTO: Okay.</p> <p>13 MR. ASSAF: Maybe we're</p> <p>14 missing it.</p> <p>15 JUDGE RIVERA-SOTO: Where is this</p> <p>16 deposition being taken?</p> <p>17 MR. ASSAF: In Cleveland.</p> <p>18 MR. McDERMOTT: In Cleveland,</p> <p>19 Ohio, your Honor.</p> <p>20 JUDGE RIVERA-SOTO: And is it</p> <p>21 Mr. Bevan's office or somewhere else?</p> <p>22 MR. McDERMOTT: No, it's not.</p> <p>23 It's in the defendant's co-counsel's office,</p> <p>24 Judge.</p> <p>25 JUDGE RIVERA-SOTO: Who's that?</p>

<p style="text-align: right;">Page 42</p> <p>1 MR. McDERMOTT: Thompson Hine 2 & Flory. 3 JUDGE RIVERA-SOTO: Okay. Well, I 4 would assume, unless I'm totally, totally 5 crazed, which I try not to be, in fact, the 6 errata sheet should be readily available from 7 Mr. Bevan. He can either have someone email it 8 to where you guys are located or hand deliver 9 it or, you know, Pony Express it there, but 10 somehow get it there so that this sideshow can 11 be put to rest. 12 MR. McDERMOTT: That would be 13 great, your Honor. 14 MR. ASSAF: That would be 15 great, yeah. 16 MR. McDERMOTT: Thank you so 17 much. 18 MR. ASSAF: Because none 19 of the attorneys in the -- 20 JUDGE RIVERA-SOTO: Mr. Bevan -- 21 I'm sorry. Mr. Bevan, are you there? 22 THE WITNESS: I am, your 23 Honor. 24 JUDGE RIVERA-SOTO: Mr. Bevan, can 25 you do that for us, please?</p>	<p style="text-align: right;">Page 44</p> <p>1 as you're not called late for dinner, I'm sure. 2 But, Mr. McDermott, you had a second 3 question about whether the attorney-client 4 privilege applies. 5 Just so that you know, the presiding 6 district court judge is Chief Judge Linares 7 here in the District of New Jersey, has ruled 8 that those privileges have been waived because 9 they've put the issue -- the matter into issue. 10 So I would hope that someone has given 11 you the benefit of those earlier rulings, I'm 12 thinking in particular of an August 3, 2017 13 opinion that judge -- Chief Judge Linares 14 issued in this case that sort of provides the 15 blueprint of the deposition that Mr. Assaf is 16 trying to take of Mr. Bevan. 17 So I would suggest to you that if you 18 haven't had a chance to look at that, that you 19 find some time before you make an 20 attorney-client privilege objection, because it 21 seems to me that it likely would not be 22 well-founded and it also seems to me that 23 interposing that objection at this stage might 24 result in the imposition of sanctions in this 25 case, because the issue, that's been litigated,</p>
<p style="text-align: right;">Page 43</p> <p>1 THE WITNESS: I will try my 2 hardest. I'm going to send a text right now to 3 my paralegal. And I assume she still has it. 4 She mailed and emailed it, whatever you do, 5 with the court reporter. I know I completed it 6 and signed it and gave it to her to handle. 7 So ... 8 JUDGE RIVERA-SOTO: Well, if she 9 doesn't have it, please have her retrieve it 10 from the court reporter. 11 THE WITNESS: Yes. 12 JUDGE RIVERA-SOTO: It's got to be 13 some place. 14 THE WITNESS: Yes. 15 JUDGE RIVERA-SOTO: And it's got 16 to be some place that can readily retrievable 17 so it can be used at the deposition. 18 To answer the second question -- is it 19 Mr. McDermott? Did I get that correct? 20 MR. McDERMOTT: Yes, Judge. 21 JUDGE RIVERA-SOTO: I'm sorry, I 22 didn't want to call you by a different names. 23 MR. McDERMOTT: That's okay. 24 I'll answer to anything, your Honor. 25 JUDGE RIVERA-SOTO: Well, as long</p>	<p style="text-align: right;">Page 45</p> <p>1 frankly, fairly well, and it doesn't need to be 2 revisited again is my view. So ... 3 MR. ROTH: Your Honor, 4 it's Harry Roth. 5 JUDGE RIVERA-SOTO: Good morning, 6 Mr. Roth. How are you? 7 MR. ROTH: I'm doing 8 great. How are you? 9 JUDGE RIVERA-SOTO: I'm not in 10 Cleveland, so I'm okay. 11 MR. ROTH: Okay. But the 12 number of times I find myself saying yeah, but 13 we won a Super Bowl, so it doesn't matter. 14 JUDGE RIVERA-SOTO: That's the 15 only -- 16 MR. ROTH: Right. 17 And I think the issue of Judge Linares' 18 ruling about the limited waiver of 19 attorney-client privilege has been gone over 20 extensively with counsel. 21 The objection being raised now is one 22 that would affect Mr. McDermott's communication 23 with Mr. Bevan, which is a separate issue and 24 well beyond the scope, in my view, of what 25 Chief Judge Linares ruled with respect to</p>

<p style="text-align: right;">Page 46</p> <p>1 privilege between Mr. Bevan and his clients in 2 the underlying cases or in facts, in discussion 3 of facts, as it may arise in the Williams case. 4 And I would also add -- 5 JUDGE RIVERA-SOTO: But work with 6 me here, Mr. Roth. 7 MR. ROTH: Yes. 8 JUDGE RIVERA-SOTO: Because if the 9 discussions that Mr. Bevan is having with 10 Mr. McDermott are really about the subject 11 matter that Chief Judge Linares has already 12 determined is waived, you don't get to then 13 repackage it under a privilege because you're 14 talking to a different lawyer in respect to it. 15 MR. ROTH: I don't 16 disagree with that, your Honor. The square -- 17 JUDGE RIVERA-SOTO: Okay. 18 MR. ROTH: The square 19 question posed by Mr. Assaf was whether there 20 was any -- sorry, I shouldn't say "the square 21 question." 22 The paraphrasing of the question was 23 whether there was any discussion between 24 Mr. Bevan and anyone that led to his reviewing 25 the number of case files that satisfied the</p>	<p style="text-align: right;">Page 48</p> <p>1 is that you're representing your client at a 2 deposition because he's been subpoenaed to 3 testify in a New Jersey District Court case. 4 In that New Jersey District Court case, 5 rulings in respect of privilege dealing with 6 the earlier cases and what was known and what 7 was not known and what lead the clients then to 8 either not bring a case, bring a case and then 9 dismiss it, or bring a case and then settle it 10 for a nominal value is at issue in this case 11 and, therefore, waived by the plaintiffs' own 12 actions. 13 So I understand what you're saying, but 14 in the end, it doesn't strike me as being all 15 that relevant. 16 MR. ASSAF: So, your 17 Honor, I think -- yes, I think we're all -- 18 we're now all level set here. 19 The specific question that caused this 20 is -- and it goes to your comment that, you 21 know, did he talk to somebody about changing 22 this. But when a witness, whether on the stand 23 or after he gives sworn testimony, changes that 24 testimony, then a lawyer's entitled to inquire 25 into what was said to -- if anything, to cause</p>
<p style="text-align: right;">Page 47</p> <p>1 class definition. So that -- 2 JUDGE RIVERA-SOTO: I mean, that's 3 a yes or a no answer. Whether there was any 4 discussion is a yes or no answer. With whom. 5 MR. McDERMOTT: Well, Judge -- 6 JUDGE RIVERA-SOTO: Well, with my 7 lawyer. Oh, okay. Then the privilege gets 8 into the -- 9 MR. ROTH: Fair enough, 10 Judge. 11 JUDGE RIVERA-SOTO: -- mix, but 12 the question that was asked is did this happen? 13 Yes or no, it didn't. 14 MR. McDERMOTT: Judge -- 15 Judge, if I could just add to what Mr. Roth 16 said. The question was much broader than that, 17 but it just -- to me, it was asking about any 18 and all matters that I may have had 19 conversations with my client regarding my job 20 here, which is just to defend this deposition, 21 again, nothing to do with the lawsuit in New 22 Jersey, Judge, and that's why I objected, 23 because privilege is privilege. And I -- 24 JUDGE RIVERA-SOTO: Well, I 25 understand that, Mr. McDermott, but the problem</p>	<p style="text-align: right;">Page 49</p> <p>1 him to change that testimony, because it's -- 2 it's just like being on the stand. 3 If he went out into the hallway and then 4 came back and changed his testimony, a lawyer 5 would be entitled to find out what was 6 discussed regarding the reasons for the change. 7 And that's what I think I'm entitled to. 8 He had -- he had submitted an affidavit 9 to Chief Judge Linares that had a very specific 10 number in it. He then testified where that 11 specific number came from and the basis for 12 that number. Then in the errata sheet, which 13 nobody here has yet, he's changed that and 14 clarified it. I think I'm entitled to now find 15 out why the affidavit and the testimony 16 regarding the affidavit has been clarified and 17 what caused him to clarify it. 18 MR. McDERMOTT: Judge, I can 19 tell the Court I did not inform my client to 20 change any bit of his testimony. I informed my 21 client to review his deposition and make 22 changes as necessary. 23 And so these questions go outside that 24 ambit. They weren't that specific. And maybe 25 we just need to rephrase them, but the</p>

<p style="text-align: right;">Page 50</p> <p>1 questions were so broad that I had to interpose 2 that objection, Judge. 3 And I don't mean to get sideways with you 4 or with prior rulings down there in New Jersey, 5 but it was kind of outside of that fence. 6 MR. ASSAF: So if 7 Mr. Bevan's attorney is now saying that he 8 didn't discuss anything regarding the changes 9 with him except to review it, then I think it's 10 a pretty easy answer, because if somebody else 11 discussed it with him -- 12 JUDGE RIVERA-SOTO: Stop right 13 there. It's a pretty easy answer, period. 14 It strikes me that -- Mr. McDermott, I of 15 course will take your representations as an 16 officer of the court that you have not had any 17 discussions concerning the errata sheet with 18 Mr. Bevan. 19 And so, Mr. Bevan, you're ordered to 20 answer those questions. It's not any more 21 complicated than that. 22 MR. McDERMOTT: Judge, just to 23 be specific, we never got the deposition and I 24 told Mr. Bevan that if he had any changes, to 25 sign them on the errata sheet. And that's all</p>	<p style="text-align: right;">Page 52</p> <p>1 everybody else, but it's sent directly to the 2 witness. Or it's sent to the lawyer 3 representing him with instructions to get it to 4 the witness, otherwise how is the witness going 5 to read and sign and/or provide an errata 6 sheet? It just doesn't -- it's just not -- 7 it's just not that complicated. 8 MR. McDERMOTT: I thought so 9 too, Judge, but maybe -- I thought New Jersey 10 rules are different. 11 JUDGE RIVERA-SOTO: Well, there's 12 a lot about New Jersey that is unique, I will 13 concede that, but there's a great deal about it 14 that is pretty run of the wheel -- 15 run-of-the-mill. So this is one of those 16 run-of-the-mill matters. 17 MR. ASSAF: So now that 18 Mr. McDermott has made the representation, then 19 if Mr. Bevan did have discussions with anybody, 20 it would -- a fortiori or with somebody other 21 than his lawyer and that's subject to 22 examination. 23 MR. McDERMOTT: That's not 24 been -- well, all right. Judge. 25 Why don't you rephrase the question,</p>
<p style="text-align: right;">Page 51</p> <p>1 I told him. 2 JUDGE RIVERA-SOTO: Okay. 3 MR. McDERMOTT: I didn't -- I 4 personally did not review the deposition, 5 because I didn't get it, and he hadn't gotten 6 it either. 7 JUDGE RIVERA-SOTO: Well, how did 8 he prepare an errata sheet if he didn't have 9 the deposition? 10 MR. McDERMOTT: I had to go 11 hunt for it, because I kept asking the court 12 reporter where it was and it never came. 13 I thought the original -- usually in Ohio 14 when a witness asks to read, the original is 15 sent to the witness, and then -- that's kind of 16 pro forma how it's done, but apparently that 17 was lost in translation here. 18 JUDGE RIVERA-SOTO: Well, I will 19 tell you, in the jurisdictions in which I'm 20 licensed, when a witness says that he'd like to 21 read and sign a deposition, the transcript is 22 sent directly to the witness. 23 MR. McDERMOTT: Yes. It was 24 not in this case. 25 JUDGE RIVERA-SOTO: It's sent to</p>	<p style="text-align: right;">Page 53</p> <p>1 Mr. Assaf, all right? Let's not try to try the 2 case in front of the judge here. 3 JUDGE RIVERA-SOTO: We're not -- I 4 can tell you right now we're not going to try 5 the case over the phone today. 6 MR. ASSAF: Okay. 7 MR. McDERMOTT: I think I 8 understand you, your Honor. 9 JUDGE RIVERA-SOTO: Okay. You 10 know, we'll -- hopefully you folks will be able 11 to get through at least the next 45 minutes of 12 this deposition without having to call me. Not 13 that I mind, I enjoy hearing from all of you, 14 but let's try to get this deposition moving and 15 completed. 16 MR. McDERMOTT: Judge, in 35 17 years of being a lawyer, this is the second 18 time I ever had to call a judge at a 19 deposition. I apologize. 20 JUDGE RIVERA-SOTO: No apology 21 necessary. You did what you thought you needed 22 to do and I'm absolutely fine with that. And I 23 can also claim to be your senior, because I've 24 been a lawyer for 41 years. So I know I look 25 and sound much younger, but ...</p>

<p style="text-align: right;">Page 54</p> <p>1 MR. McDERMOTT: You do. 2 JUDGE RIVERA-SOTO: That's where 3 we are. 4 MR. McDERMOTT: All right. 5 Thank you, your Honor. 6 MR. ASSAF: Thank you. 7 JUDGE RIVERA-SOTO: Thank you. 8 Bye-bye. 9 ----- 10 (End of telephone call.) 11 ----- 12 MR. ASSAF: Let's put on 13 the record that that was a 16-minute telephone 14 conference with your Honor. I'm not counting 15 that against my time. 16 MR. ROTH: I thought you 17 were going somewhere else with that. 18 MR. ASSAF: No. 19 ----- 20 (Off the record.) 21 ----- 22 THE VIDEOGRAPHER: We're back on 23 the record. 24 BY MR. ASSAF: 25 Q While we're waiting, Mr. Bevan, for the errata</p>	<p style="text-align: right;">Page 56</p> <p>1 I guess that -- that statement doesn't make any 2 sense. 3 Q You think the Court's wrong? 4 A On that line, yeah, I think so. I'm not 5 positive. I have to take a look at the file 6 again, but my recollection was the lawsuit was 7 filed by Amber Baker as executrix of the estate 8 of Mrs. Cundiff. It was acknowledged in the 9 lawsuit that Mrs. Cundiff was deceased. 10 Q Do you acknowledge that the Court found that 11 you violated Rule 11? 12 A It says that here. 13 Q Do you disagree with that finding? 14 A I -- yes, I certainly do. 15 Q Could you turn to headnote 15 on page 3? 16 It says, "Because Attorney Bevan 17 willfully filed Mrs. Cundiff's claim in bad 18 faith, the trial court did not abuse its 19 discretion when it awarded attorney's fees to 20 AK Steel on the basis of Civil Rule 11." 21 Do you see that? 22 A I see that. 23 Q Do you disagree with the Court's finding there? 24 A Oh, I certainly do. I won that issue in other 25 cases. So in this jurisdiction, that is not a</p>
<p style="text-align: right;">Page 55</p> <p>1 sheet to be printed, let's go back to the 2 sanctions issue that you and I discussed 3 briefly. 4 I'm showing you a case called Baker 5 versus AK Steel from the Ohio Court of Appeals. 6 Do you recognize this case? 7 MR. McDERMOTT: This is Exhibit 8 228, correct? 9 MR. ASSAF: 228. 10 A Yeah. This is the case I mentioned earlier. 11 Q Okay. And in this case, it says that -- if you 12 turn to the second page, headnote 13, it says, 13 "Furthermore, Attorney Bevan violated Civil 14 Rule 11 when he submitted a complaint based 15 upon documents that were not signed and dated 16 by Mrs. Cundiff." 17 Do you see that? 18 A Yes. 19 Q Do you disagree with that court finding? 20 A My recollection is that that -- I have to look 21 at the pleadings again, because I believe when 22 we filed that case in court, it was filed by 23 the daughter who we believed to be the 24 executrix of the estate, Amber Baker, which is 25 the title of the case, not by Mrs. Cundiff. So</p>	<p style="text-align: right;">Page 57</p> <p>1 winning argument, but in other jurisdictions it 2 is. 3 Q In "this jurisdiction," you mean Ohio? 4 A No, I mean in whatever this -- the 12th 5 District of Butler County. I would not do it 6 in Butler County, but I've successfully pursued 7 cases on behalf of deceased widows on Workers' 8 Compensation death claims and successfully done 9 it in the past. 10 Q In other jurisdictions within Ohio, have you 11 then -- have you signed and initialed on behalf 12 of clients? 13 MR. ROTH: Objection. 14 A I -- I'm not sure what you're talking about. 15 Q Sure. 16 You understand in the Baker case one of 17 the issues was that it wasn't the client's 18 actual signature on certain papers, correct? 19 A Yes. 20 Q Okay. And do you do that -- withdrawn. 21 Have you done that on behalf of talc 22 plaintiffs? 23 A I guess I'm not sure. I don't know what you 24 mean by that, I guess. 25 Q Sure.</p>

<p style="text-align: right;">Page 58</p> <p>1 Earlier you said and except for Butler 2 County, you continue this practice that you 3 were sanctioned for in Butler County. 4 MR. ROTH: Objection to 5 the form. 6 Q Okay. 7 MR. ROTH: And -- excuse 8 me. I'm sorry, Mr. Assaf. 9 Objection to -- 10 A I don't think that's what I said. 11 Q All right. So what -- 12 MR. ROTH: Can I -- 13 Q What do you -- 14 MR. ROTH: Excuse me. 15 Gentlemen, can I make my objection? 16 MR. ASSAF: Sure. Sure. 17 Objection. I heard you. 18 MR. ROTH: I don't know 19 that the court reporter did and then there was 20 an answer. So if we could slow down a little 21 bit. 22 MR. ASSAF: Sure. 23 MR. ROTH: Thanks. 24 BY MR. ASSAF: 25 Q So what practice do you continue that you think</p>	<p style="text-align: right;">Page 60</p> <p>1 it was not her signature." 2 Do you see that? 3 A Yes. 4 Q Okay. Does the Bevan Firm have a practice of 5 encouraging clients to sign but not date forms? 6 A Typically -- no, not typically, but in 7 situations, for instance, for medical releases, 8 because some providers won't take them after 60 9 days. And so, you know, we'll ask them to sign 10 a blank medical release, and then we'll put the 11 date on there when we send it off to defense 12 counsel. 13 Q Do you ask them to sign legal pleadings, such 14 as affidavits or claims forms, and not date 15 them? 16 A Certainly not an affidavit, because that's got 17 to be notarized and dated at the time that it's 18 signed by the fiant. 19 With Workers' Compensation forms, the 20 FROI-1 form -- or actually, to file a Workers' 21 Comp claim does not require the claimant's 22 signature. In fact, a lot of that stuff can be 23 done electronically. It does not require 24 claimant's signature. 25 So we've had many instances where maybe</p>
<p style="text-align: right;">Page 59</p> <p>1 was -- got you into trouble in Butler County? 2 MR. ROTH: Objection to 3 form and foundation. 4 A The practice of pursuing Workers' Compensation 5 death benefit claims on behalf of a widow that 6 has died after her husband in attempting to 7 recover benefits for the period between her 8 husband's death and her death on behalf of the 9 estate. 10 Q Turning to footnote -- to note 13. 11 It says, "According, to Attorney Bevan, 12 this practice serves to avoid unnecessary 13 delays or rejection in the event that the 14 documents are submitted to medical providers 15 months after they are signed by the client. 16 The firm dates the documents once they are 17 forwarded to the requesting party. In 18 addition, Attorney Bevan admits that the FROI-1 19 form, a BWC document used to initiate a 20 workers' compensation claim in Ohio, was signed 21 and dated by another member of the firm's 22 staff. However, in an attempt to counter the 23 appearance of bad faith, Attorney Bevan 24 emphasizes that the form contained the initials 25 'MP' by Mrs. Cundiff's name to acknowledge that</p>	<p style="text-align: right;">Page 61</p> <p>1 the statute's coming up and we'll just, you 2 know, sign the form for the client, you know, 3 initial it and we indicate that it's not the 4 client signing it, but ... 5 Q With respect to talc plaintiffs, have you 6 submitted claims to trusts with a signature by 7 somebody in the Bevan Firm that's then 8 initialed? 9 A I don't believe the trust claims require a 10 signature from anybody. So the answer would be 11 no. 12 The releases require a signature by the 13 claimant, and those would be signed by the 14 claimant, not by anybody from the Bevan Firm, 15 but the claim that you file with the trust does 16 not require a signature that I know of. 17 Q In terms of the talc plaintiffs, did any of the 18 talc plaintiffs provide you with -- withdrawn. 19 Did you provide any of the talc 20 plaintiffs with documents that you asked them 21 to sign and not date? 22 A Not that I recall. 23 Q Would there be anything wrong with that? 24 A I don't know what documents you would be 25 referring to. You know, we don't always</p>

<p style="text-align: right;">Page 62</p> <p>1 require a client date his or her signature.</p> <p>2 Q Have you talked to reporters about this case,</p> <p>3 the Williams case?</p> <p>4 A A reporter called me a week or two ago and I</p> <p>5 talked to her briefly.</p> <p>6 Q What reporter?</p> <p>7 A I believe she was from Reuters and I do not</p> <p>8 recall the name.</p> <p>9 Q What did she ask you about the case?</p> <p>10 A She was asking about Johnson & Johnson and</p> <p>11 whether or not this issue, these issues,</p> <p>12 involved Johnson & Johnson and - that was my</p> <p>13 recollection.</p> <p>14 Q What did you tell her, if anything?</p> <p>15 A I believe it does involve Johnson & Johnson,</p> <p>16 because I believe that Johnson & Johnson had</p> <p>17 the liabilities up until a certain point in</p> <p>18 time for this, the talc that came out of that</p> <p>19 mine, Eastern Magnesia Talc. So I believe</p> <p>20 these - the issues in this case affects</p> <p>21 Johnson & Johnson as well, they have the</p> <p>22 liabilities.</p> <p>23 Q Other than that recent conversation with the</p> <p>24 Reuters reporter, have you talked to any other</p> <p>25 reporters about this case?</p>	<p style="text-align: right;">Page 64</p> <p>1 the form.</p> <p>2 A He called me and I returned his phone call.</p> <p>3 Q What did he say when he called you?</p> <p>4 A That he was doing a story on this particular</p> <p>5 case having to do with BASF.</p> <p>6 Q Do you know how he got your name?</p> <p>7 A No. I assume he got it from the Placitella</p> <p>8 firm, but I don't know.</p> <p>9 Q Did the Placitella firm email you about this?</p> <p>10 MR. ROTH: Objection.</p> <p>11 A I don't recall.</p> <p>12 Q And then the article came out, correct,</p> <p>13 Bloomberg?</p> <p>14 A I believe I read this article when it came out,</p> <p>15 yes.</p> <p>16 Q Did any of your friends read it?</p> <p>17 A I -</p> <p>18 Q Any of your friends in the Bar say, "Gee, I saw</p> <p>19 you quoted in Bloomberg today"?</p> <p>20 A I've never had anybody comment that they saw me</p> <p>21 quoted in Bloomberg, no.</p> <p>22 Q Anybody email it to you?</p> <p>23 A I think maybe the reporter did. I think.</p> <p>24 Q Okay. He emailed you the article?</p> <p>25 A I think so.</p>
<p style="text-align: right;">Page 63</p> <p>1 A I believe there was another - I think, yes.</p> <p>2 There was a man. I don't recall which - who</p> <p>3 he was with, but I believe so. I believe that</p> <p>4 was quite a while ago.</p> <p>5 Q Okay. I'm going to show you this and see if I</p> <p>6 can refresh your recollection. I'll show you</p> <p>7 what's been marked as Exhibit 237.</p> <p>8 Exhibit 237 is a printout of a Bloomberg</p> <p>9 article from September 3, 2015.</p> <p>10 Do you recognize this, Mr. Bevan?</p> <p>11 A Jef Feeley, that's the name I think I</p> <p>12 recognize, yes.</p> <p>13 Q Did you talk to Mr. Feeley at some point?</p> <p>14 A I believe Mr. Feeley came to my office. We</p> <p>15 probably talked on the phone as well.</p> <p>16 Q Did you talk on the phone before, after, or</p> <p>17 both, the office visit?</p> <p>18 A Certainly before. Whether we talked after the</p> <p>19 office visit, I don't recall.</p> <p>20 Q Prior to talking to Mr. Feeley and meeting with</p> <p>21 him, had you known him?</p> <p>22 A No.</p> <p>23 Q How did you come to contact Mr. Feeley? Or did</p> <p>24 he contact you?</p> <p>25 MR. ROTH: Objection to</p>	<p style="text-align: right;">Page 65</p> <p>1 Q Okay. Well, where is that document, sir?</p> <p>2 A I don't know that I would have saved that</p> <p>3 document.</p> <p>4 Q I thought that had to do with the Williams</p> <p>5 case. Didn't it?</p> <p>6 MR. ROTH: Objection.</p> <p>7 A It's this article.</p> <p>8 Q And the article's about the Williams case,</p> <p>9 right?</p> <p>10 A It's mentioned.</p> <p>11 I don't see "Williams" mentioned. Is it</p> <p>12 mentioned in here?</p> <p>13 Q Well, let's try it this way.</p> <p>14 A I see -</p> <p>15 Q You gave a quote, didn't you, "This has really</p> <p>16 opened a Pandora's Box"?</p> <p>17 A Yes.</p> <p>18 Q And there's a reference to Cahill Gordon and</p> <p>19 the talc litigation.</p> <p>20 Is it your testimony that you didn't</p> <p>21 think this had anything to do with Williams?</p> <p>22 A I don't see Williams' name mentioned in here.</p> <p>23 Am I missing it?</p> <p>24 Point it out to me. I'm missing it here.</p> <p>25 Q If you turn to the last page. The second to</p>

<p style="text-align: right;">Page 66</p> <p>1 last paragraph on page 6 of 7, it says, 2 "Placitella filed a federal lawsuit in New 3 Jersey against BASF on behalf of six 4 plaintiffs." 5 Do you see that? 6 A Yes. 7 Q Do you have any idea what that might relate to? 8 MR. ROTH: Objection. 9 A I don't know. I mean, it may involve the 10 Williams case. I -- it doesn't say "Williams" 11 in there, so ... 12 Q Okay. So as an experienced practicing lawyer 13 who's been involved with the Williams case, 14 when you read this article, you weren't sure 15 whether it had anything to do with Williams? 16 A I didn't see "Williams" mentioned in here at 17 all and it talks about Paduano -- or Paduano. 18 MR. ROTH: Paduano. 19 A Paduano. 20 Q When it says the six plaintiffs of a federal 21 lawsuit in New Jersey, you have no idea what 22 that refers to, do you, Mr. Bevan? 23 MR. ROTH: Objection. 24 A I said that might involve this case. I -- you 25 know, you'll have to ask Mr. Feeley.</p>	<p style="text-align: right;">Page 68</p> <p>1 A On my computer? I don't have my computer. 2 Q Do you have your phone? 3 A I've got my phone. 4 Q Can you look for it? 5 A Sure. 6 MR. ROTH: While he's 7 looking, I'll just make a foundation objection 8 in terms of scope of discovery requests. 9 Q Do you have multiple emails from Mr. Feeley? 10 A I don't know. 11 Q Are you searching for the name "Feeley"? 12 A I don't know how to search on this thing, so 13 I'm going through every -- I've got about a 14 thousand emails. I'll go through every one if 15 you want me to. I don't know how to search on 16 my phone. 17 Q You don't have a search function? 18 A If I do, I don't know how it -- 19 Q What kind of operating system do you have, 20 Mr. Bevan? 21 A This is an iPhone. I can search -- 22 MR. McDERMOTT: Objection. 23 A -- at my office. Okay? 24 Q Okay. Could you do that? 25 A Is this really funny to you?</p>
<p style="text-align: right;">Page 67</p> <p>1 Q You didn't discuss Williams with Mr. Feeley? 2 A I don't know if I discussed Williams or not 3 with Mr. Feeley. I know I discussed Damell 4 with Mr. Feeley. If I discussed Williams, I 5 don't know. 6 Q Damell's a plaintiff in Williams, isn't she? 7 A I believe Damell's a plaintiff, yes. 8 Q Okay. So in terms of your approach, though, to 9 saving documents or producing documents, if an 10 article like this doesn't mention the word 11 "Williams," you're not sure whether you would 12 have saved or produced this? 13 A I don't know whether I saved or produced it. I 14 may have it in my computer, you know. 15 MR. ROTH: Note my 16 objection to that question, please. 17 Q Okay. Well, we don't have it. 18 MR. ROTH: I'm just 19 objecting to the question. 20 A I think it's in your hand right now. How are 21 you saying you don't have it? 22 Q We don't have the email from Mr. Feeley. 23 Do you have it on your computer? 24 A I don't know. 25 Q Could you look?</p>	<p style="text-align: right;">Page 69</p> <p>1 Q Well, I just -- I find it difficult -- 2 A If you went -- if you asked me to search in my 3 office, I could search in my office. If you 4 want me to search on my phone, I could search 5 through 3,947 emails. 6 Q Is that what you were just doing? 7 A Yeah. 8 Q Okay. Well, would you be kind enough at the 9 lunch break to ask your assistant to search for 10 all emails to and from Mr. Feeley or regarding 11 Mr. Feeley? 12 A I would have to do that search myself. 13 MR. ROTH: We'll check for 14 the subpoena to make sure that that's a request 15 that's within the scope of the subpoena. 16 MR. ASSAF: Okay. 17 A So yeah. So I could go back to my office and 18 do it, but I would do it myself. I'm not going 19 to have my paralegal do it. 20 Q Okay. 21 A But I can do it. And it wouldn't take me long. 22 Q All right. Well, we'll see. We'll see if we 23 can -- and while you're doing that, could you 24 see if you have any article -- any other emails 25 regarding the Bloomberg article?</p>

<p style="text-align: right;">Page 70</p> <p>1 A Any emails that I have regarding Mr. Feeley, 2 sure. 3 MR. ROTH: So is this a 4 new discovery request? 5 MR. ASSAF: No, it's an 6 outstanding discovery request. 7 MR. ROTH: That's why I 8 want to look at the subpoena and make sure. 9 MR. ASSAF: Since his 10 statement in the article -- he's quoted in the 11 article and he talked to the reporter and it's 12 neither logged nor produced. I'm kind of 13 curious to why not. 14 MR. ROTH: Okay. I'm 15 curious to see what's in the subpoena. 16 MR. ASSAF: Unless you 17 think it's nonresponsive. 18 MR. ROTH: I think it may 19 be nonresponsive, but I'll look at the 20 subpoena. And let's move on. 21 ----- 22 (Defendants' Exhibit 291A was marked.) 23 ----- 24 BY MR. ASSAF: 25 Q We now have the errata sheet, D Ex 291.</p>	<p style="text-align: right;">Page 72</p> <p>1 there was a high likelihood of Eastern Magnesia 2 Talc exposure. I believe those were the 3 criteria we were looking at." 4 Okay. And then you say change, "The 5 Bevan clients" -- what's that word? 6 A "referenced." 7 Q "referenced did." 8 A "not include clients that did not file cases 9 against Eastern Magnesia Talc." 10 That's all one sentence. 11 Q Okay. What's the reason for the change? 12 Because you don't have it there, do you? 13 Withdrawn. 14 The errata sheet -- you've worked with 15 errata sheets in the past, haven't you? 16 A Yes. 17 Q And you clarify, identify the change, correct? 18 A Yes. 19 Q And then you provide the reason for the change, 20 correct? 21 A I've never done it before. It says -- yeah, 22 and "Reason for Change." I did not put the 23 reason for change. 24 Q In 30 years of practice, you don't understand 25 that you have to put the reason for the change</p>
<p style="text-align: right;">Page 71</p> <p>1 MR. McDERMOTT: Thank you. 2 Can we mark that, please? 3 MR. ASSAF: It's D Ex 291. 4 MR. McDERMOTT: Thank you. 5 Q Okay. Regarding the errata sheet, on the 6 second page of D Ex 291, you corrected page 7 114. 8 MR. McDERMOTT: Excuse me. 9 Just for a point of clarification, D Ex 291, is 10 this a new exhibit or is this the previous D Ex 11 291? 12 MR. ASSAF: Let's do this 13 as 291A. 14 MR. McDERMOTT: Thank you. 15 Q Okay. Could you turn to page 114? 16 21 to 25. "What documents or data were 17 used to arrive at the figure 2,653 Bevan Law 18 Firm clients?" 19 "I believe they were clients that had 20 filed suit against Eastern Magnesia Talc" or 21 could have -- "and/or could have filed suit 22 against Eastern Magnesia Talc and either 23 settled their claims with Eastern Magnesia Talc 24 or had their claims dismissed against Eastern 25 Magnesia Talc. And they were at sites where</p>	<p style="text-align: right;">Page 73</p> <p>1 in an errata sheet? 2 MR. ROTH: Objection. 3 A I've never -- I don't think I've ever done an 4 errata sheet where I've made changes. Or if 5 the change is obvious, the change is obvious. 6 I don't -- you know, you're not making any 7 sense to me. 8 Q You've never as a practicing attorney worked 9 with an errata sheet? 10 MR. McDERMOTT: Objection. 11 MR. ROTH: Objection. 12 A I've had a few things. Usually it's a typo or 13 something on there. 14 Q Usually a typo or something like that? 15 A Yes. 16 Q And then you would put "typo," correct? 17 A No. I've never done that. 18 Q Okay. You provide the reason why you're 19 putting the change in, don't you, Mr. Bevan? 20 A I don't recall I've ever provided the reason 21 why. I mean if the reason's obvious. 22 Q Okay. In your practice, as you sit here today, 23 you can't recall ever providing the reason why 24 you're changing something in a deposition 25 testimony for an errata sheet?</p>

<p style="text-align: right;">Page 74</p> <p>1 A I don't think so. You know, it's usually 2 self-explanatory. 3 Q And so "Reason for the Change," what does that 4 mean to you? 5 A It means what is the change about. 6 Q The reason for the change. 7 What is the reason for your change? 8 A The reason for my change was that the clients 9 that we referenced did not include cases where 10 we did not file against Eastern Magnesia Talc. 11 Q So did you misspeak? Was it a typo? What was 12 the -- 13 A No, I was -- yeah, I misspoke. I was incorrect 14 on that. 15 Q You were incorrect on that. 16 And how did you realize you were 17 incorrect? 18 A I went back and I talked to Pat to find out -- 19 well, when I got the deposition, I talked to 20 Pat to find out exactly how we identified those 21 2,000 some cases, and he confirmed with me that 22 we did not include cases for people that could 23 have filed against Eastern Magnesia Talc but 24 did not. 25 Q Did you talk to anybody else besides Mr. Walsh</p>	<p style="text-align: right;">Page 76</p> <p>1 your testimony? 2 A No. 3 Q Did you know at that point you had to clarify 4 your testimony? 5 A No. I didn't know until I did this, whatever 6 date this was. It was all on that same date. 7 May 4. 8 Q It was a month after your deposition? 9 A Yeah. When I got the transcript, I reviewed it 10 and checked with Pat on how we arrived at that 11 number, confirmed it, and that's when I put 12 that change in there. 13 Q And then if you turn to page 115, lines 1 to 14 11. I'll turn your attention to 7. 15 Question, "The figure 2,653 includes 16 clients who did file and clients who could have 17 filed?" 18 Answer, "I believe so, yes." 19 Do you see that? 20 A Yes. 21 Q That's inaccurate testimony? 22 A Yeah, that was inaccurate. We did not include 23 clients that could have filed. The number 24 would have been much larger if we would have 25 included that.</p>
<p style="text-align: right;">Page 75</p> <p>1 about your testimony? 2 A No. I did the errata sheet. I don't think I 3 talked to anybody about the errata sheet. I 4 gave it to a paralegal to send off. 5 Q You didn't talk to anybody from Cohen, 6 Placitella -- this is a yes or no. 7 You didn't talk to anybody at Cohen, 8 Placitella & Roth regarding that testimony 9 regarding 2,653? 10 A No. 11 MR. ROTH: Do you want me 12 to answer that too? You're looking right at 13 me, Gene. 14 Q Did you talk to anybody -- did you talk to your 15 lawyer about it? 16 MR. McDERMOTT: Objection. 17 A Not the errata sheet. Immediately after the 18 deposition, we talked about the deposition, 19 sure. 20 MR. McDERMOTT: Privilege. 21 Q Did you talk about the 2,653? 22 A I believe, you know, Kevin asked me about how 23 we got to that and how we arrived at those 24 numbers and I told him. 25 Q And did he advise you that you had to clarify</p>	<p style="text-align: right;">Page 77</p> <p>1 Q Did you have any -- did you and Mr. Walsh 2 generate any documents on this in trying to 3 check whether the 2,653 was correct? 4 A No. I mean, I could do the search again and 5 probably come up with that number again. 6 Q Did you review the testimony with Mr. Walsh? 7 Did you show him the testimony? 8 A No. 9 Q When you left the deposition on April 4, is it 10 fair to say that you knew that your affidavit 11 was then wrong? 12 A No. 13 Q When you left the deposition on April 4, is it 14 clear -- 15 A I'm sorry. Why is my affidavit wrong? 16 Q Withdrawn. 17 When you left the deposition on April 4, 18 if you included people who did not file, your 19 deposition would be wrong, fair? 20 MR. ROTH: Objection to 21 form. 22 A Yeah, you have to restate that question to me. 23 Q Sure. 24 If you had included people who did not 25 file in that 2,653, then your affidavit would</p>

<p style="text-align: right;">Page 78</p> <p>1 be inaccurate, fair?</p> <p>2 MR. ROTH: Sorry.</p> <p>3 Objection.</p> <p>4 A If I -- if I included people who -- that did</p> <p>5 not file --</p> <p>6 Q File in that 2,653 number, then it would be</p> <p>7 wrong under the class definition, fair?</p> <p>8 MR. ROTH: Objection to</p> <p>9 form.</p> <p>10 A I believe so. I believe the class definition</p> <p>11 did not include people who could have but did</p> <p>12 not file.</p> <p>13 Q And at the time of your deposition, did you</p> <p>14 realize that the class definition did not</p> <p>15 include people who could have filed?</p> <p>16 A I think I had forgotten that. I didn't realize</p> <p>17 that. And I indicated that our number included</p> <p>18 people that could have filed, but it did not</p> <p>19 include that number of people.</p> <p>20 Q Regarding that 2,653 number, are they people in</p> <p>21 the Bevan database?</p> <p>22 A I believe so.</p> <p>23 Q So if I had the -- access to the Bevan</p> <p>24 database, I could generate that 2,653 number?</p> <p>25 A I believe so. I believe they're all still in</p>	<p style="text-align: right;">Page 80</p> <p>1 made in the Williams class action."</p> <p>2 Do you see that?</p> <p>3 A Yes.</p> <p>4 Q Do you want to do an errata for that,</p> <p>5 Mr. Bevan, and make it "somewhat familiar"?</p> <p>6 MR. ROTH: Objection to</p> <p>7 form. Why don't we be a little less</p> <p>8 dismissive.</p> <p>9 A I would say that, you know, I could reread the</p> <p>10 complaint again and familiarize myself even</p> <p>11 more with it. But certainly at the time that I</p> <p>12 did the affidavit, it was accurate.</p> <p>13 Q So in January of 2018, you were familiar with</p> <p>14 the claims and allegations, fair?</p> <p>15 A Fair.</p> <p>16 Q And now you're somewhat familiar?</p> <p>17 A Fair.</p> <p>18 Q After sitting through two days of depositions?</p> <p>19 A Yeah.</p> <p>20 Q What did you do to prepare for today's</p> <p>21 deposition?</p> <p>22 A I met with my attorneys.</p> <p>23 Q Who?</p> <p>24 A Mr. McDermott and Mr. Gallucci.</p> <p>25 Q How long?</p>
<p style="text-align: right;">Page 79</p> <p>1 the database. I -- you know, as far as I know,</p> <p>2 I think that's how we did it.</p> <p>3 Q And you're familiar with the claims and the</p> <p>4 allegations in the Williams case, correct?</p> <p>5 A Yeah, I'm somewhat familiar. I read the</p> <p>6 complaint. I've read the circuit court</p> <p>7 decision, which highlights it pretty well.</p> <p>8 Q You don't want to say you're familiar, you want</p> <p>9 to say you're somewhat familiar?</p> <p>10 MR. ROTH: Objection to</p> <p>11 the form.</p> <p>12 A Yeah, I don't think I'm as familiar as probably</p> <p>13 you are familiar with it. I don't think I'm as</p> <p>14 familiar with Mr. Roth or Mr. Placitella.</p> <p>15 So...</p> <p>16 Q Would the following statement be true: Tom</p> <p>17 Bevan is familiar with the claims and</p> <p>18 allegations in the Williams case?</p> <p>19 MR. ROTH: Objection.</p> <p>20 A I said I'm somewhat familiar. I think, yes.</p> <p>21 Q Well, could you turn to your affidavit again?</p> <p>22 D Ex 145.</p> <p>23 A Yes.</p> <p>24 Q In paragraph 2, the last sentence, it says, "I</p> <p>25 am familiar with the claims and allegations</p>	<p style="text-align: right;">Page 81</p> <p>1 A A few hours.</p> <p>2 Q Anybody else there?</p> <p>3 A No.</p> <p>4 Q Anybody else on the phone?</p> <p>5 A No.</p> <p>6 Q Did you review any documents?</p> <p>7 A No. No. The last document I reviewed, I</p> <p>8 reviewed my deposition prior to the last</p> <p>9 deposition. I reviewed this deposition a few</p> <p>10 weeks ago when I signed it. I did not review</p> <p>11 any other documents in preparation.</p> <p>12 Q How long did the preparation session last?</p> <p>13 A I said I met with them --</p> <p>14 MR. McDERMOTT: Asked and</p> <p>15 answered.</p> <p>16 A A few hours I think I said.</p> <p>17 MR. McDERMOTT: Objection.</p> <p>18 Q Two hours, four hours?</p> <p>19 A Three, give or take an hour.</p> <p>20 Q Okay. And it was only discussions, you didn't</p> <p>21 look at any documents?</p> <p>22 A Correct.</p> <p>23 Q Were you shown anything on a screen?</p> <p>24 A No.</p> <p>25 Q Other than your two attorneys that you</p>

<p style="text-align: right;">Page 82</p> <p>1 identified, did you talk to anybody from Cohen, 2 Placitella & Roth regarding today's deposition? 3 A No. 4 Q Did you have any communications with Cohen, 5 Placitella & Roth regarding today's deposition? 6 A No. I said hi to them this morning. 7 Q Did you bring any documents with you today? 8 A Nothing related to this case. 9 Q Going back to 236. Or I'm sorry, 237, the 10 Bloomberg article. 11 A Yes. 12 Q Did you tell the reporter that you were 13 involved in the Williams case? 14 A I don't recall. 15 Q Okay. Or did you tell them you were involved 16 in a federal court case involving six people in 17 New Jersey that may or may not be Williams? 18 MR. ROTH: Objection. 19 A I don't recall. 20 Q All right. So could you just turn to the 21 second page of the Bloomberg printout. 22 It says, "This has really opened a 23 Pandora's Box," said Tom Bevan, a lawyer in 24 Boston Heights, Ohio, who represented hundreds 25 of people who sued Engelhard in the 1990s and</p>	<p style="text-align: right;">Page 84</p> <p>1 '15. 2 Q The quote "This has really opened a Pandora's 3 Box," is that an accurate quote? 4 A I think it is. 5 Q You said that to the reporter? 6 A I assume I said it. I don't recall saying it, 7 but I would agree with that statement. 8 Q And did you tell him you were involved in the 9 federal case? 10 A I don't recall. I know I -- I know I told them 11 I was representing Mrs. Holley, who's the 12 executrix of the Darrell estate. 13 Q How are you involved in the federal case? 14 A Well, I still represent thousands of people 15 that potentially are class members. I'm not 16 handling the federal case in any way. I'm not 17 counsel of record, but I am still the attorneys 18 for these -- for Mrs. Williams, for Marilyn 19 Holley, for the Ware family. I'm the attorney 20 for the Clark family. 21 Q But independent of your relationships with 22 Holley, Ware, and the other plaintiffs, you 23 have a fee agreement with Cohen, Placitella & 24 Roth, correct? 25 MR. ROTH: Objection.</p>
<p style="text-align: right;">Page 83</p> <p>1 is involved in a current federal case against 2 BASF." 3 Do you see that? 4 A Yes. 5 Q Do you have any idea of what -- withdrawn. 6 When you read the article, did you have 7 any understanding of what the "current federal 8 case against BASF" referred to? 9 A I assume it's this class action but ... 10 Q Williams? 11 A Yeah. 12 Q Okay. And when you read that, you knew it had 13 to do with Williams, correct? 14 A You know, I don't know that I really gave it 15 much thought. 16 Q Are you involved in any other federal case 17 against BASF? 18 A I'm involved in the Ross case, and I don't 19 recall -- I know it's filed in New Jersey. 20 Whether that's a state court or federal court, 21 I'm not sure. 22 Q Was the Ross case even filed at this time? 23 A I don't know when the Ross case was filed. 24 That was probably filed in -- I don't know. 25 I'm not sure when the Ross case was -- '16 or</p>	<p style="text-align: right;">Page 85</p> <p>1 A Say that again. Independent of? 2 Q Independent of your relationships with the 3 named plaintiffs, you have a separate 4 relationship with Cohen, Placitella & Roth -- 5 MR. McDERMOTT: Objection. 6 Q -- correct? 7 A I have relationships, yes. 8 Q You have a fee arrangement with Cohen, 9 Placitella & Roth, correct? 10 MR. McDERMOTT: Objection. 11 MR. ROTH: Objection. 12 A Yes. 13 Q Has that been disclosed to your individual 14 clients? 15 MR. ROTH: Objection. 16 MR. McDERMOTT: Same objection. 17 MR. ROTH: Privilege. 18 MR. McDERMOTT: Continuing 19 objection about these questions. 20 A I'm -- I'm fairly certain that, for instance, 21 on the Ross case, I assume that the client 22 signed a fee agreement with both our firm on 23 there and the Placitella firm. 24 Q Regarding the Williams case, have you disclosed 25 your arrangements with Cohen, Placitella & Roth</p>

<p style="text-align: right;">Page 86</p> <p>1 to the named plaintiffs in Williams?</p> <p>2 A I'm sure I have.</p> <p>3 MR. ROTH: Objection.</p> <p>4 Privilege.</p> <p>5 MR. McDERMOTT: Continuing</p> <p>6 objection to this line of questions.</p> <p>7 Q You're sure you have?</p> <p>8 A Yeah.</p> <p>9 Q Okay. So when I depose them, they should know</p> <p>10 about it?</p> <p>11 A If they recall. If they don't -- this has been</p> <p>12 going on for a long time.</p> <p>13 Q Okay. Would it have been in writing or orally?</p> <p>14 A Probably orally.</p> <p>15 Q What would you have told them?</p> <p>16 MR. ROTH: Objection.</p> <p>17 Privilege.</p> <p>18 MR. ASSAF: Not privileged.</p> <p>19 MR. ROTH: Okay.</p> <p>20 MR. ASSAF: He's -- let him</p> <p>21 finish.</p> <p>22 MR. ROTH: No. No. No.</p> <p>23 I can make --</p> <p>24 MR. ASSAF: I'll tell you</p> <p>25 why. I'll tell you why it's not privileged.</p>	<p style="text-align: right;">Page 88</p> <p>1 you told them about your fee arrangement?</p> <p>2 MR. ROTH: Objection.</p> <p>3 A No.</p> <p>4 MR. ROTH: Privilege.</p> <p>5 MR. McDERMOTT: Continuing</p> <p>6 objection on this line. I think I read a Court</p> <p>7 order surrounding this.</p> <p>8 Q Regarding your familiarity, whether you're</p> <p>9 somewhat familiar or familiar with the facts</p> <p>10 and claims in the Williams case, did you tell</p> <p>11 your plaintiffs, your named plaintiffs,</p> <p>12 clients, that you had familiarity with the</p> <p>13 allegations?</p> <p>14 A I'm sure I explained the basic gist of the</p> <p>15 allegations.</p> <p>16 Q When's the first time you heard about the</p> <p>17 allegations that Engelhard may have done</p> <p>18 something inappropriate?</p> <p>19 A I believe it was either 2010 or 2011.</p> <p>20 Q How did you hear about it?</p> <p>21 A From Chris Placitella.</p> <p>22 Q What happened?</p> <p>23 A I believe Chris and I spoke on the phone, and</p> <p>24 he told me that there was evidence that Eastern</p> <p>25 Magnesia Talc contained asbestos, that they</p>
<p style="text-align: right;">Page 87</p> <p>1 Not privileged because what he -- his</p> <p>2 discussions with named plaintiffs, not</p> <p>3 privileged.</p> <p>4 MR. ROTH: His discussions</p> <p>5 with named plaintiffs about the facts</p> <p>6 underlying the Williams claim are not</p> <p>7 privileged, period. Everything else is</p> <p>8 privileged.</p> <p>9 Q You can answer.</p> <p>10 MR. McDERMOTT: I'll join in</p> <p>11 that objection.</p> <p>12 A Why don't you repeat the question again.</p> <p>13 Q Sure.</p> <p>14 What did you tell them, the named</p> <p>15 plaintiffs, about your fee arrangements with</p> <p>16 Cohen, Placitella & Roth?</p> <p>17 MR. ROTH: Same objection.</p> <p>18 A I don't recall, other than I was working with</p> <p>19 Cohen, Placitella & Roth.</p> <p>20 Q You told them you were working with them.</p> <p>21 Did you tell them that you had a fee</p> <p>22 arrangement with them?</p> <p>23 A I believe I did. I don't recall what I told</p> <p>24 them.</p> <p>25 Q You don't recall in words or in substance what</p>	<p style="text-align: right;">Page 89</p> <p>1 knew it and that they had been deceiving people</p> <p>2 for many years.</p> <p>3 Q Did he ask for your help?</p> <p>4 MR. ROTH: Objection.</p> <p>5 Privilege, work-product.</p> <p>6 A If he asked for my help, he asked if I -- you</p> <p>7 know, if this was something that would interest</p> <p>8 me on behalf of my clients.</p> <p>9 Q Did you convey to him what you recalled,</p> <p>10 regarding the facts, at that point?</p> <p>11 A I'm sure I did.</p> <p>12 Q What did you tell him?</p> <p>13 A I'm sure I told him that they told me that</p> <p>14 their talc did not contain asbestos, that they</p> <p>15 sent me letters and affidavits, threatening</p> <p>16 letters, that they would seek sanctions if I</p> <p>17 did not dismiss them. And as a result, we</p> <p>18 either dismissed them or settled with them for</p> <p>19 very low amounts.</p> <p>20 Q You told them all of this in your first</p> <p>21 conversation?</p> <p>22 A I am sure I did, because that's about a</p> <p>23 two-minute conversation, what I just told you.</p> <p>24 Q Okay. So Mr. Placitella calls you.</p> <p>25 Prior to Mr. Placitella calling you about</p>

<p style="text-align: right;">Page 90</p> <p>1 Engelhard for the first time, when's the last 2 time you had spoken to him? 3 A The last time I had spoken to him? 4 Q Yeah. 5 A I don't know if we had ever spoken. We may 6 have. We may have corresponded by email, but 7 I'm not -- I don't recall. 8 Q Okay. And prior to you talking to 9 Mr. Placitella, when's the last time you had 10 any conversations with any lawyer representing 11 Engelhard? 12 A Me personally? 13 Q Yeah. 14 A Probably early 2000s. Early to mid-2000s. 15 Q When's the last time you had reviewed any 16 letters from Engelhard when you first talked to 17 Mr. Placitella? 18 A Maybe mid-2000s. I'm not sure. You know, 19 probably in the Graham case. Maybe in 2008 or 20 so. 21 Q By the way, did R.T. Vanderbilt have asbestos 22 in its talc? 23 A I believe there's some evidence that R.T. 24 Vanderbilt had asbestos in their talc. 25 Q Did Southern Talc had asbestos in the talc?</p>	<p style="text-align: right;">Page 92</p> <p>1 big fights I've always had with R.T. Vanderbilt 2 of course in the rubber plants was product ID, 3 was their product there, but I had one -- I 4 feel like I had a case where their product was 5 there, it wasn't out of the rubber industry, 6 and I don't recall what their argument was, 7 whether it was an argument that their talc 8 couldn't cause mesothelioma, their talc -- 9 there was no evidence of mesothelioma with 10 their employees. We battled over that issue, I 11 recall. 12 Q So Mr. Placitella calls you up, the first time 13 you recall talking to him, and you tell him 14 about these letters and positions that 15 Engelhard had taken and you recalled them and 16 you were able to tell him that with some 17 specificity? 18 MR. ROTH: Objection to 19 form and foundation. 20 A Yeah. Yes. 21 Q And Vanderbilt -- you can't tell me what 22 positions Vanderbilt's taken? 23 A They certainly didn't take an aggressive 24 position like Eastern Magnesia Talc, as far as 25 whether or not there was asbestos in their</p>
<p style="text-align: right;">Page 91</p> <p>1 A I've seen some evidence of that, yes. 2 Q Did R.T. Vanderbilt take the position there's 3 no asbestos in their talc? 4 A I'm not sure. I'm not sure what they -- what 5 position they take. 6 Q Has R.T. Vanderbilt submitted pleadings to you 7 and letters to you saying there's no asbestos 8 in our talc? 9 A I'm not sure. 10 Q You can't remember? 11 A I'm not sure, yeah. 12 Q And Southern Talc, has Southern Talc submitted 13 pleadings saying there's no asbestos in their 14 talc? 15 A I don't recall Southern Talc ever submitting 16 anything. I don't recall that. 17 Q Have they submitted letters to you saying 18 there's no asbestos in the talc? 19 A I don't believe so. 20 Q With respect to R.T. Vanderbilt, what do you 21 recall about R.T. Vanderbilt telling you 22 there's no asbestos in the talc? 23 A The best that I can recall -- and I have not 24 dealt with R.T. Vanderbilt in probably ten 25 years. The best that I can recall is -- the</p>	<p style="text-align: right;">Page 93</p> <p>1 talc. 2 Q So if I'm able to show you pleadings in cases 3 you've been involved in, including summary 4 judgments that you've lost and briefs in which 5 they're saying there's no asbestos in the talc 6 and you're saying they're lying, would that jog 7 your memory at all as to whether they've taken 8 an aggressive position? 9 MR. ROTH: Objection to 10 form and foundation. 11 A It would jog my memory what -- I guess what I 12 mean by an aggressive position is the threat of 13 sanctions, the -- I can recall, for instance, 14 Mr. Joslyn being very threatening in 15 depositions or in breaks or after depositions. 16 I can recall specific instances of Mr. Joslyn. 17 Q And you told Mr. Placitella that? 18 MR. ROTH: I'm sorry. 19 Were you finished, Mr. Bevan? 20 THE WITNESS: Yeah, I'm 21 finished. 22 A Whether I told him -- like this one incidence I 23 recall of Mr. Joslyn, whether I've told that to 24 Mr. Placitella, I don't know. I can tell him 25 now if you want me to.</p>

<p style="text-align: right;">Page 94</p> <p>1 Q Okay. So Mr. Placitella calls you.</p> <p>2 And do you then call any of your clients?</p> <p>3 A Within some time, yes.</p> <p>4 Q Who do you call?</p> <p>5 A I'm sure I talked to Marilyn Holley. I know I</p> <p>6 talked to Nancy Pease. I believe I talked to</p> <p>7 Mrs. Ware. I don't -- I don't know if I</p> <p>8 personally talked to the other two or not. I</p> <p>9 don't recall.</p> <p>10 Q Who are the other two? Or who were they at the</p> <p>11 time?</p> <p>12 A Well, the other one is Jennifer Graham's</p> <p>13 daughter, and I'm -- Donnette Wengerd and</p> <p>14 Kimberlee Williams are the other two.</p> <p>15 Q They're the only five people you talked to who</p> <p>16 are clients?</p> <p>17 A That's all I can recall that I've talked to.</p> <p>18 Q So you personally called them?</p> <p>19 A I know I personally talked to Nancy Pease,</p> <p>20 Marilyn Holley, and Mrs. Ware. I don't recall</p> <p>21 talking to Kimberlee Williams or Donnette</p> <p>22 Wengerd.</p> <p>23 Q Ever?</p> <p>24 A Well, I've talked to them, yes.</p> <p>25 Q But about Williams?</p>	<p style="text-align: right;">Page 96</p> <p>1 A I'm sure it wasn't long. Five minutes maybe.</p> <p>2 Q Was she the first client you called?</p> <p>3 A I don't recall.</p> <p>4 Q Was there anybody else with you when you called</p> <p>5 her?</p> <p>6 A I don't think so.</p> <p>7 Q Did you talk to anybody else between your</p> <p>8 Placitella conversation and Ms. Holley?</p> <p>9 A Well, I'm sure I talked to, you know, my</p> <p>10 partner, Pat, probably.</p> <p>11 Q Probably or yes?</p> <p>12 MR. ROTH: Objection.</p> <p>13 A I may have.</p> <p>14 I may have talked to my paralegal, Erin</p> <p>15 Clark.</p> <p>16 Q So Mr. Placitella calls you, and then you call</p> <p>17 Ms. Holley and tell her that you're</p> <p>18 investigating a fraud claim, her mother was</p> <p>19 exposed to talc, Ermtal lied about it, and as a</p> <p>20 result of the lie, you settled for less than</p> <p>21 you had to?</p> <p>22 A That is probably a pretty good summary.</p> <p>23 Q And you knew all of that from your own personal</p> <p>24 history in dealing with Engelhard and your</p> <p>25 initial conversation with Mr. Placitella?</p>
<p style="text-align: right;">Page 95</p> <p>1 A About this case, I don't know if I have talked</p> <p>2 to them about this case personally myself.</p> <p>3 Q As we sit here, you can't recall any</p> <p>4 conversations with Ms. Wengerd or Ms. Williams</p> <p>5 regarding this case?</p> <p>6 A I just don't recall.</p> <p>7 Q Okay. So what did you say to Ms. Holley?</p> <p>8 A That we're looking into a potential fraud case</p> <p>9 against BASF because her mother was exposed to</p> <p>10 talc or soapstone at Goodrich and Eastern</p> <p>11 Magnesia Talc lied to us and said that there</p> <p>12 was never any evidence of any asbestos in their</p> <p>13 talc. And as a result of that lie, we settled</p> <p>14 for a nominal amount with Eastern Magnesia</p> <p>15 Talc, an amount that we would not have</p> <p>16 otherwise settled with them for, had they been</p> <p>17 truthful in their response to our discovery.</p> <p>18 Q Okay. Anything else that you can recall saying</p> <p>19 to Ms. Holley?</p> <p>20 A That's all I can recall at this time.</p> <p>21 Q Did she ask you any questions?</p> <p>22 A I'm sure she asked me how my family was.</p> <p>23 Particularly pertaining to this case, I don't</p> <p>24 recall if she asked me questions.</p> <p>25 Q How long did the conversation last?</p>	<p style="text-align: right;">Page 97</p> <p>1 A Well, I know what Engelhard told me -- or</p> <p>2 Eastern Magnesia Talc, because that's what I</p> <p>3 always refer to them. I know what they told me</p> <p>4 over the years.</p> <p>5 Q And in terms of the lie, the alleged lie, how</p> <p>6 were you concluding that there was a lie?</p> <p>7 A Nothing other than what Mr. Placitella told me.</p> <p>8 Q The basis for your conveying to your clients</p> <p>9 that there was a lie was solely based on what</p> <p>10 Mr. Placitella told you, fair?</p> <p>11 A Yes.</p> <p>12 MR. ROTH: Objection.</p> <p>13 Q Okay. Now, Ms. Pease, could you tell me</p> <p>14 everything that happened in that conversation?</p> <p>15 A It would have been a similar conversation. It</p> <p>16 would have been the same.</p> <p>17 Q And again, the basis for you telling the</p> <p>18 plaintiff, Ms. Pease, that there was a lie was</p> <p>19 solely based on what Mr. Placitella told you?</p> <p>20 A Yes.</p> <p>21 Q Ms. Ware, same conversation?</p> <p>22 A It would have been the same conversation.</p> <p>23 Q Same reliance --</p> <p>24 A Yes.</p> <p>25 Q -- on Mr. Placitella?</p>

<p style="text-align: right;">Page 98</p> <p>1 And Ms. Graham and Ms. Kimberlee 2 Williams, you don't recall one way or the other 3 having a conversation with them? 4 A I don't recall having a conversation with the 5 two of them. 6 Q Okay. Were there any clients that you 7 contacted and then did not become named 8 plaintiffs? 9 A It was possibly the Myers case, but I don't 10 recall for sure whether or not Harold Myers was 11 a case that we considered and talked to 12 Mrs. Myers. 13 Q Out of the five named plaintiffs, how many meso 14 cases were there? 15 A I believe four of them were mesos. Meso lung 16 cancer. 17 Q Was there any reason why there were four mesos? 18 Withdrawn. 19 MR. McDERMOTT: Objection. 20 Q Withdrawn. 21 Did Mr. Placitella in words and substance 22 ask you to find meso cases? 23 MR. ROTH: Objection to 24 the form and work-product. 25 Don't answer that question. Please.</p>	<p style="text-align: right;">Page 100</p> <p>1 long conversation. 2 Q Five minutes each, or five minutes in total for 3 the three of them? 4 A Five minutes each. 5 Q Okay. And then when's the next time you spoke 6 to them about the case that became known as 7 Williams? 8 A I can't give you any specific dates. 9 Occasionally I've talked to Marilyn Holley. 10 I don't recall if I've ever talked to 11 Mrs. Pease after the initial conversation, and 12 then she developed Alzheimer's or dementia or 13 something, so her sister, Gayle, has taken over 14 and I spoke once with Gayle. 15 And Donnette Wengerd, I know I've talked 16 to her once in the last year or two, a couple 17 years. I don't recall when. 18 Q When Mr. Placitella called you, did you take 19 notes? 20 A No. 21 Q When you called the clients, did you take 22 notes? 23 A No. 24 Q When you called Ms. Holley, Pease, and Ware, 25 did you tell them to expect a call from</p>
<p style="text-align: right;">Page 99</p> <p>1 Q You can answer. 2 A I will decline to answer. 3 MR. ASSAF: 502. 4 Q You can answer. 5 MR. ROTH: No. Yeah, I 6 don't think there's a 502 on this. 7 Q You're not going to answer the question? 8 A I won't answer that, no. 9 MR. ASSAF: Counsel, same 10 instruction? 11 MR. McDERMOTT: I don't know 12 anything about 502. 13 MR. ASSAF: Are you 14 instructing him not to answer? Because I don't 15 think Mr. Roth can. 16 MR. McDERMOTT: I will instruct 17 him not to answer. 18 THE WITNESS: Thank you. 19 MR. ROTH: That's why I 20 said please. 21 BY MR. ASSAF: 22 Q Okay. How long did the Holley, Ware, and Pease 23 conversations last? 24 A I thought I told you. About five minutes 25 probably. I don't think it would have been a</p>	<p style="text-align: right;">Page 101</p> <p>1 Mr. Placitella, or did you arrange a meeting or 2 say -- what did you say? How did you end it? 3 A I'm certain I mentioned Mr. Placitella's 4 office. And how I connected them, I don't 5 recall for sure, but somehow I connected them. 6 I probably had the paralegal, Erin Clark, you 7 know, connected too or let them know that hey, 8 they're going to be calling. 9 Q When you talked to Ms. Holley, Ms. Pease, and 10 Ms. Ware, did they provide you any factual 11 information regarding why they settled their 12 cases? 13 A No. 14 Q They wouldn't know why they settled, they were 15 relying on you, fair? 16 A I'm sure they relied on me. 17 Q Right. 18 Did you ever provide them with any 19 reasons why you were settling the Ermtal cases? 20 A The settlement was not solely Ermtal, it was 21 with a group of talc defendants. And I'm 22 sure -- for instance, for all of them, I spoke 23 with them, whether it was Mrs. Pease, I don't 24 recall if it was -- Mrs. Clark alive at the 25 time that I settled it.</p>

<p style="text-align: right;">Page 102</p> <p>1 Same with the Damell case. I talked 2 with Kathryn Damell very regularly. Whether 3 that settlement was done while Kathryn was 4 still alive or if it was done afterwards and I 5 conversed with Marilyn, I don't recall because 6 it's a long time ago. 7 But I spoke with these clients quite 8 regularly about what we were doing and why we 9 were doing it and made my recommendations to 10 them. 11 Q And in your initial conversations with Holley, 12 Pease, and Ware, did you convey to them in 13 words or in substance that you wouldn't have 14 not recommended a group settlement if you 15 thought there was an asbestos -- a talc company 16 out there who had evidence of asbestos in it? 17 MR. ROTH: Objection to 18 form. 19 MR. McDERMOTT: Object as to 20 form. There's two negatives in that question. 21 Q Withdrawn. 22 When you were talking to Ware, Pease, and 23 Holley, did you tell them that you recommended 24 a group settlement on the assumption that there 25 was no asbestos in any of the talc defendants'</p>	<p style="text-align: right;">Page 104</p> <p>1 settlement, true? 2 A Based on the fact that I had no product ID, 3 yes. 4 Q But you knew -- 5 A Do you understand what I mean by that? 6 Q I know what you mean by product ID, Mr. Bevan. 7 A There's two parts to it. 8 Q There's -- 9 A Our clients -- was their product where my 10 clients worked and did their product contain 11 asbestos. The evidence was very clear that 12 Eastern Magnesia Talc product, and a tremendous 13 amount of it, was where my clients worked. 14 There wasn't evidence of much, if any, 15 Southern talc or R.T. Vanderbilt talc where my 16 clients worked during the years that they 17 worked there. 18 Q Okay. So -- and thank you for that 19 clarification. There are two important 20 components -- 21 A Yes. 22 Q -- of assessing claims against a talc 23 manufacturer, whether there's asbestos in the 24 talc? 25 A Yes.</p>
<p style="text-align: right;">Page 103</p> <p>1 products? 2 MR. ROTH: Objection. 3 A How that -- I stated that, I don't recall, but 4 I'm certain I would have alluded to that fact, 5 which was this is why we did what we did, 6 because we were of the belief that there was no 7 asbestos in Eastern Magnesia Talc. 8 Q And if you had thought -- withdrawn. 9 If you had a belief that there was 10 asbestos in another talc manufacturer's 11 product, you wouldn't have given them a benefit 12 of the group settlement, fair? 13 MR. ROTH: Objection. 14 A Well, no. Just based on what you're -- just on 15 those simple facts. That's just not enough 16 facts to go on. 17 Q Well, you knew that Southern Talc had documents 18 showing asbestos in their talc, true? 19 A I believe I had something that said that there 20 was asbestos in Southern Talc. 21 Q And you -- you also knew at the time of group 22 settlement that R.T. Vanderbilt had documents 23 showing asbestos in their talc, true? 24 A I believe I was aware of that, yes. 25 Q Correct. And you still recommended a group</p>	<p style="text-align: right;">Page 105</p> <p>1 Q And product ID, correct? 2 A Yes. 3 Q And exposure, correct? 4 A Yes. 5 Q Okay. So -- and then there could be other 6 issues that would go into your settlement, 7 whether there is a statute of limitations 8 problem, correct? 9 A That could be an issue. 10 Q Whether, for example, you have some procedural 11 problems, like your witness list is stricken? 12 That could also factor into a settlement, 13 correct? 14 A I suppose. 15 Q Whether there are alternative exposures, 16 correct? 17 A Yes. 18 Q Whether a claimant is relying on a doctor whose 19 credentials may be subject to attack under 292, 20 correct? Withdrawn. 21 You understand a number of talc cases 22 were dismissed administratively as a result of 23 House Bill 292, correct? 24 A I think so, yes. 25 Q Okay. And do you think those people have been</p>

<p style="text-align: right;">Page 106</p> <p>1 harmed by Engelhard?</p> <p>2 A I think yes. Yes.</p> <p>3 Q Would an administrative dismissal by a Court be</p> <p>4 an issue similar to product ID, in your mind,</p> <p>5 in trying to resolve cases?</p> <p>6 MR. ROTH: Objection.</p> <p>7 A If a court administratively dismisses a case --</p> <p>8 you're going to have to repeat that.</p> <p>9 Q Sure.</p> <p>10 You and I had a short discussion about</p> <p>11 House Bill 292, correct?</p> <p>12 A I'm familiar with it.</p> <p>13 Q Yeah.</p> <p>14 A I don't recall you and I talking about it.</p> <p>15 Q All right. But you understand that after 292</p> <p>16 was enacted, there were a number of asbestos</p> <p>17 cases dismissed, correct?</p> <p>18 A Yes.</p> <p>19 Q And a number of your talc asbestos cases were</p> <p>20 dismissed, correct?</p> <p>21 A I assume. I don't know for sure, but I</p> <p>22 assume --</p> <p>23 Q Do you think --</p> <p>24 A -- there was some.</p> <p>25 Q -- the people who had their claims</p>	<p style="text-align: right;">Page 108</p> <p>1 MR. ROTH: Objection.</p> <p>2 A I believe there's probably some in there. I</p> <p>3 don't know how many.</p> <p>4 Q You and Mr. Walsh never went back and tried to</p> <p>5 figure out whether there were administrative</p> <p>6 292 dismissals in that 2,653 number, did you?</p> <p>7 MR. ROTH: Objection.</p> <p>8 A No.</p> <p>9 MR. McDERMOTT: Can we take a</p> <p>10 break?</p> <p>11 MR. ASSAF: We have five</p> <p>12 minutes on tape.</p> <p>13 MR. McDERMOTT: Okay.</p> <p>14 Q I would ask you not to discuss your testimony</p> <p>15 with anybody during the break.</p> <p>16 A Sure.</p> <p>17 MR. ASSAF: Thank you.</p> <p>18 THE VIDEOGRAPHER: Off the record.</p> <p>19 The time is 11:05.</p> <p>20 -----</p> <p>21 (Recess taken.)</p> <p>22 -----</p> <p>23 THE VIDEOGRAPHER: We're back on</p> <p>24 the record. The time is 11:13.</p> <p>25 BY MR. ASSAF:</p>
<p style="text-align: right;">Page 107</p> <p>1 administratively dismissed against Engelhard</p> <p>2 should still have a claim against Engelhard?</p> <p>3 MR. ROTH: Objection.</p> <p>4 A I guess I don't understand your question.</p> <p>5 Q Sure. Let's go back to your affidavit. Okay?</p> <p>6 A Okay.</p> <p>7 Q When the definition is about claims that were</p> <p>8 dismissed, do you understand that that includes</p> <p>9 administrative dismissals as well?</p> <p>10 A I don't know that that's what we looked at, as</p> <p>11 far as dismissal. We were looking at cases</p> <p>12 that got dismissed either on summary judgment</p> <p>13 or were voluntarily dismissed.</p> <p>14 Q So your testimony is that the 2,653 does not</p> <p>15 include administrative dismissals?</p> <p>16 A No, that's not my -- what I'm telling you.</p> <p>17 Q All right. It does include administrative</p> <p>18 dismissals?</p> <p>19 A Yes.</p> <p>20 Q Of course, right?</p> <p>21 A Well, if there was some. I assume there was</p> <p>22 some. Yeah, I don't how many, but ...</p> <p>23 Q And administrative dismissals as a result of</p> <p>24 Bill 292 would also be included in that 2,653</p> <p>25 number, correct?</p>	<p style="text-align: right;">Page 109</p> <p>1 Q I'm going to show you what's been previously</p> <p>2 marked as D Ex1. D Ex1 in the second amended</p> <p>3 complaint in the Williams case.</p> <p>4 Have you seen this before?</p> <p>5 A Yes. I've seen the Williams complaint. The</p> <p>6 second amended, I'm not sure.</p> <p>7 Q For the original complaint, did you review that</p> <p>8 complaint prior to filing?</p> <p>9 A I reviewed it. I don't know if I reviewed it</p> <p>10 prior to filing.</p> <p>11 Q Have you ever made any suggested changes to the</p> <p>12 complaint?</p> <p>13 A Not that I recall, no.</p> <p>14 Q Did you ever tell Mr. -- withdrawn.</p> <p>15 Have you ever told anybody from Cohen,</p> <p>16 Placitella & Roth that there were facts in the</p> <p>17 complaint that were inaccurate?</p> <p>18 A Not that I recall.</p> <p>19 Q Do you know whether there are any inaccuracies</p> <p>20 in the complaint?</p> <p>21 A I don't know.</p> <p>22 Q Do you view yourself as an agent for your</p> <p>23 various clients?</p> <p>24 A Yes.</p> <p>25 Q Okay. And did you want to make sure the</p>

<p style="text-align: right;">Page 110</p> <p>1 complaint was accurate, in order to protect 2 their interests? 3 A I didn't feel that was my job in this 4 situation, no. 5 Q So you talked to Mr. Placitella, you have five 6 minute conversations with three of the five 7 plaintiffs, and then what else do you do in 8 terms of the Williams case? 9 MR. ROTH: Objection. 10 A What have I done? 11 Q Yeah. 12 A Gathered documents in response to the subpoena. 13 Testified. I've read pleadings. That's 14 probably the extent of it. 15 Q What else have you done in terms of conveying 16 your factual knowledge to people? 17 A I know I told Mr. Placitella what happened. 18 Q In that first conversation? 19 A In multiple conversations. 20 Q Okay. So you had other conversations with 21 Mr. Placitella apart from that first one? 22 A Yes. 23 Q Okay. How many others? 24 A I have no idea. 25 Q Were they all on the phone, or were some in</p>	<p style="text-align: right;">Page 112</p> <p>1 facts are, Harry, I'm asking if he conveyed 2 facts to him. 3 MR. McDERMOTT: Can we just -- 4 Q Could you -- witness, could you leave the room, 5 please? 6 A Sure. 7 MR. ASSAF: Go off the 8 record. 9 THE VIDEOGRAPHER: Off the record. 10 The time is 11:17. 11 ----- 12 (Discussion held off the record.) 13 ----- 14 THE VIDEOGRAPHER: We're back on 15 the record. 16 MR. McDERMOTT: Tom, after 17 conferring, we're just going to lodge an 18 objection. 19 Go ahead and answer Mr. Assaf's last 20 question. 21 THE WITNESS: Can you read 22 the question back to me? 23 BY MR. ASSAF: 24 Q Withdrawn. Withdrawn. 25 Did you convey facts to Mr. Placitella in</p>
<p style="text-align: right;">Page 111</p> <p>1 person? 2 A We've spoken in person. 3 Q Did he come out here to Ohio? 4 A He's been out here at least once that I can 5 recall. At least once. 6 Q When did you convey, if ever, to Mr. Placitella 7 your understanding of the facts? 8 A I'm sure I conveyed facts the first time we 9 talked. 10 Q Other than that first five-minute conversation. 11 A It's been many times. 12 Q Did you ever provide him anything in writing? 13 A You know, I'm sure there was emails exchanged. 14 You know, emails. 15 Q And in those emails, were there facts that you 16 had recalled and were trying to convey to him 17 to help him out? 18 MR. ROTH: Objection. I 19 think the Court has ruled on emails. 20 You don't have to answer that. 21 Q You definitely have to answer this one. 22 MR. McDERMOTT: Can we -- hold 23 on one second, please. 24 MR. ASSAF: I'm not asking 25 him what was said. I'm not asking what the</p>	<p style="text-align: right;">Page 113</p> <p>1 these emails? 2 A I believe that I probably conveyed some facts. 3 Q And are these facts that you also conveyed to 4 the five named plaintiffs? 5 MR. ROTH: Objection to 6 form. 7 A You know, I'm not sure what I said in the 8 email, so I really can't accurately -- 9 Q Let's try it this way. 10 A -- say that for sure. 11 Q You never spoke to Ms. Wengerd or Ms. Graham or 12 Kimberlee Williams -- 13 MR. ROTH: Objection. 14 Q -- as far as you can recall regarding this 15 case? 16 A I don't think I did. I -- I -- no, I've 17 probably spoken to Donnette Wengerd, but not 18 early on. I don't recall for sure. 19 Q And the Holley, Pease, and Ware conversations 20 were five minutes, correct? 21 MR. McDERMOTT: Objection. 22 A I'm estimating. 23 Q So now I'm trying to -- is it fair to say that 24 you had more substantive, more detailed, 25 factual conversations with Mr. Placitella than</p>

<p style="text-align: right;">Page 114</p> <p>1 you did with the named plaintiffs? Fair?</p> <p>2 MR. ROTH: Objection to</p> <p>3 form.</p> <p>4 A Certainly from Mr. Placitella's end. You know,</p> <p>5 he knew more than, you know, my clients knew.</p> <p>6 Q You provided Mr. Placitella with more facts</p> <p>7 than you provided to your clients, fair?</p> <p>8 MR. ROTH: Objection.</p> <p>9 A I think so.</p> <p>10 Q Well, since you never spoke to Ms. Wengerd or</p> <p>11 Ms. Williams regarding the facts, by definition</p> <p>12 you had to provide Mr. Placitella with more</p> <p>13 facts, fair?</p> <p>14 MR. ROTH: Objection.</p> <p>15 A Me personally, yeah, sure.</p> <p>16 Q And in providing these facts, some of the facts</p> <p>17 were in emails, correct?</p> <p>18 A I think. I'm not positive, but I think.</p> <p>19 Q Have you reviewed these emails?</p> <p>20 A I -- no. I got a stack of emails, but I have</p> <p>21 not reviewed them.</p> <p>22 Q When did you get a stack of emails?</p> <p>23 A Some -- some time ago. I printed out a stack</p> <p>24 of my emails.</p> <p>25 Q A week, a month, two months?</p>	<p style="text-align: right;">Page 116</p> <p>1 didn't discuss with your clients, correct?</p> <p>2 MR. ROTH: Objection.</p> <p>3 A I don't know.</p> <p>4 Q You never discussed anything with Ms. Williams?</p> <p>5 A Me personally?</p> <p>6 Q Correct. Correct.</p> <p>7 A No.</p> <p>8 Q And she's the named plaintiff in this case,</p> <p>9 correct?</p> <p>10 A I think she's the lead plaintiff.</p> <p>11 MR. ROTH: Objection.</p> <p>12 Q So if there are any facts in those emails,</p> <p>13 Mr. Placitella would have greater access to</p> <p>14 those facts than Ms. Williams, true?</p> <p>15 A I can't answer that. I don't -- I don't know.</p> <p>16 Q Did you provide Mr. Placitella with facts</p> <p>17 regarding the underlying Engelhard cases?</p> <p>18 A Again, I'm not sure what I put in the email.</p> <p>19 Q Well, you said previously you did put facts in</p> <p>20 the --</p> <p>21 A I said I think I did, but I don't know exactly</p> <p>22 what I put in.</p> <p>23 Q And you wouldn't know until you or somebody</p> <p>24 reviewed them as to whether there are facts in</p> <p>25 those emails?</p>
<p style="text-align: right;">Page 115</p> <p>1 A I don't recall when it was.</p> <p>2 Q And did you review them in the context of this</p> <p>3 case?</p> <p>4 A I did not review them, I just printed them.</p> <p>5 Q Why did you print them?</p> <p>6 A In case I was going to have to turn them over.</p> <p>7 Q You weren't curious as to what were on the</p> <p>8 emails?</p> <p>9 A It's a lot of emails. I didn't have the time.</p> <p>10 I'm not going to review them if I don't have</p> <p>11 to.</p> <p>12 Q What do you mean "a lot"?</p> <p>13 A It's, you know, dozens of emails. I mean it's</p> <p>14 probably a four-inch, five-inch stack of</p> <p>15 emails.</p> <p>16 Q To and from Mr. Placitella and his colleagues?</p> <p>17 A Yes.</p> <p>18 Q And those emails, again, contain information</p> <p>19 that your clients don't have --</p> <p>20 MR. ROTH: Objection.</p> <p>21 Q -- correct, the five --</p> <p>22 MR. ROTH: Form and</p> <p>23 foundation.</p> <p>24 A I wouldn't agree with that.</p> <p>25 Q Well, those emails contain facts that you</p>	<p style="text-align: right;">Page 117</p> <p>1 A That's true.</p> <p>2 Q Okay. And would it -- would there be some</p> <p>3 reason why you wouldn't convey to</p> <p>4 Mr. Placitella facts in those emails?</p> <p>5 MR. ROTH: Objection.</p> <p>6 A Yeah, if it didn't come up. If there wasn't a</p> <p>7 need at the time.</p> <p>8 Q Well, in this four-inch stack of dozens and</p> <p>9 dozens of emails, can you think of any reason</p> <p>10 why you wouldn't convey to him a fact that</p> <p>11 would be relevant to the case?</p> <p>12 A If it didn't come up, I didn't put it in an</p> <p>13 email.</p> <p>14 Q Well, what type of communications would you</p> <p>15 have with Mr. Placitella if you weren't</p> <p>16 conveying to him facts regarding the underlying</p> <p>17 action?</p> <p>18 A Well, first of all, I've had communications</p> <p>19 with Mr. Placitella and people of his -- from</p> <p>20 his firm on things unrelated to this case.</p> <p>21 I've had conversations in email communications</p> <p>22 with them with respect to the Ross case. That</p> <p>23 would all be in that same stack of emails.</p> <p>24 Q So let's put the Ross case and other cases --</p> <p>25 let's just talk about the Williams case.</p>

<p style="text-align: right;">Page 118</p> <p>1 A Okay.</p> <p>2 Q Okay. Those emails contain facts that you are</p> <p>3 historically familiar with after reviewing the</p> <p>4 documents and after looking at your files,</p> <p>5 right?</p> <p>6 MR. ROTH: Objection to</p> <p>7 form.</p> <p>8 Q Well, let's start this --</p> <p>9 A I don't know.</p> <p>10 Q -- way, Mr. Bevan.</p> <p>11 When Mr. Placitella calls -- withdrawn.</p> <p>12 Withdrawn.</p> <p>13 When Mr. Placitella calls you and tells</p> <p>14 you about what he's found and then you call</p> <p>15 your clients, didn't you go back to your files</p> <p>16 and start looking at them to see what the facts</p> <p>17 were and try to understand all of the</p> <p>18 correspondence and what happened in the cases?</p> <p>19 A I don't think I went back to the client files,</p> <p>20 no.</p> <p>21 Q How did you understand, then, what the facts of</p> <p>22 the underlying -- what happened in the</p> <p>23 underlying cases?</p> <p>24 A Because I was there. I handled it. I was the</p> <p>25 one that had the conversations with Eastern</p>	<p style="text-align: right;">Page 120</p> <p>1 correct?</p> <p>2 A Yes.</p> <p>3 Q You even have that on your website, correct?</p> <p>4 A Sure.</p> <p>5 Q Various ways how people could be exposed to</p> <p>6 asbestos, correct?</p> <p>7 A Yes.</p> <p>8 Q Let me show you what's been marked as</p> <p>9 Defendants' Exhibit 241 and 242.</p> <p>10 Do you recognize that as a screenshot of</p> <p>11 your website?</p> <p>12 A Yeah, I haven't looked at it in years, but I</p> <p>13 don't dispute that fact.</p> <p>14 Q Okay. In terms of 242, there's a listing of</p> <p>15 products on that, correct?</p> <p>16 A Well, it's some pictures of products.</p> <p>17 Q Have you ever heard the term "photo array"?</p> <p>18 Photo array.</p> <p>19 A Photo array?</p> <p>20 Q Yeah.</p> <p>21 A No.</p> <p>22 Q When clients come in, do you show them photos</p> <p>23 of various products in order to help them with</p> <p>24 product ID?</p> <p>25 A We have on occasion, but typically no.</p>
<p style="text-align: right;">Page 119</p> <p>1 Magnesia Talc lawyers.</p> <p>2 Q Okay.</p> <p>3 A I was the one that received the letters. I was</p> <p>4 the one that was there in the depositions when</p> <p>5 they were there. I was there in the court</p> <p>6 hearings when they were there. I handled the</p> <p>7 cases. I handled every aspect of it. So I</p> <p>8 recall what happened.</p> <p>9 Q You handled every aspect of the cases?</p> <p>10 A Well, I mean I, you know --</p> <p>11 Q You just said that.</p> <p>12 A Yeah. As an attorney, yes.</p> <p>13 Q Okay. All right. I'm going to write that one</p> <p>14 down. We're going to come back to that.</p> <p>15 A Go ahead and write that one down.</p> <p>16 Q Every aspect. Okay.</p> <p>17 MR. ROTH: As an attorney.</p> <p>18 Make sure you get it right.</p> <p>19 Q And then as part of your role as an attorney,</p> <p>20 when a client first comes to you, you review --</p> <p>21 you perform a thorough investigation to</p> <p>22 determine the underlying facts, correct?</p> <p>23 A Yes.</p> <p>24 Q And you also try to figure out from the client</p> <p>25 whether they've been exposed to asbestos,</p>	<p style="text-align: right;">Page 121</p> <p>1 Q Okay. And in your photo gallery on your</p> <p>2 website, there's no listing of talc?</p> <p>3 A There's no picture of talc.</p> <p>4 Q Okay. Why is that?</p> <p>5 A I don't think I have a picture of talc.</p> <p>6 Q You're trying to inform your prospective and</p> <p>7 new clients of various ways that they could</p> <p>8 have come in contact with asbestos, correct?</p> <p>9 A No. These are just -- these are just some</p> <p>10 pictures. I mean, this is, you know, one-tenth</p> <p>11 of 1 percent of the types of asbestos products</p> <p>12 that exist. So it's not meant to be</p> <p>13 exhaustive, if that's what you're asking me.</p> <p>14 Q The entire client set?</p> <p>15 A I don't think I've ever reviewed these pictures</p> <p>16 with my clients.</p> <p>17 Q Are there any Bar rules regarding information</p> <p>18 contained on your website and whether it has to</p> <p>19 be accurate?</p> <p>20 A Yeah, it should be accurate.</p> <p>21 Q And it shouldn't mislead or omit important</p> <p>22 information for clients, correct?</p> <p>23 MR. ROTH: Objection to</p> <p>24 form.</p> <p>25 A Yeah. Yes.</p>

<p style="text-align: right;">Page 122</p> <p>1 Q And so if a client came in with meso, you would 2 expect them to be able to look at this and see 3 whether they would have gotten meso or worked 4 with one of these products, correct? 5 A No. 6 Q Never? 7 MR. ROTH: Objection. 8 A No. 9 Q You said you -- did you tell Mr. Placitella 10 everything you can recall without looking at 11 documents? 12 A I don't recall. 13 Q Well, did you review documents to try to convey 14 facts to Mr. Placitella? 15 A The only documents I think I've reviewed was 16 the talc settlement files that I referenced in 17 the last deposition that was eight and a half 18 inches thick. That's the only one document 19 that I recall that I reviewed at the time. I 20 don't recall what was in there, if there was 21 some letters in there from Eastern Magnesia 22 Talc. I don't recall. 23 Q In terms of the facts, if you conveyed facts to 24 Mr. Placitella, how can I see those facts? 25 MR. ROTH: Objection to</p>	<p style="text-align: right;">Page 124</p> <p>1 anybody beyond that. I would speak to them at 2 breaks in depositions or after depositions. 3 They would call me. Well, Scott Martin 4 typically would call me. They would send me 5 letters. They would make sanction threats 6 against me. 7 I recall a specific incident in a 8 deposition, it was the John Nardella 9 deposition, when Allen Joslyn came and, you 10 know, very aggressively after the deposition 11 about why I hadn't dismissed Eastern Magnesia 12 Talc. 13 I recall that one specifically, because 14 Mr. Nardella, who I represented who was a guy 15 that wasn't afraid to speak his mind, when 16 Mr. Joslyn walked away, he looked at me and 17 said, "What an asshole." And I had many 18 conversations with both of them. 19 We dismissed cases. We ultimately did a 20 global talc settlement at numbers that were 21 very low. 22 And our issue with the talc case was that 23 the product ID we had was predominately Eastern 24 Magnesia Talc product ID. It was significant 25 amounts of Eastern Magnesia Talc.</p>
<p style="text-align: right;">Page 123</p> <p>1 the form and foundation. 2 Q Are they anywhere else for me to see? 3 A I guess you could ask me the facts. 4 Q Well, what facts -- tell me -- could you tell 5 me everything you conveyed to Mr. Placitella in 6 terms of the facts of the case? 7 A Things that I've conveyed to Mr. -- 8 Q Everything. 9 A I'll tell you what I can recall, which is that 10 we filed suits against Eastern Magnesia Talc 11 starting in the very early '90s when I began to 12 practice law, that I got threatening letters 13 and phone calls -- 14 MR. ROTH: Mr. Bevan, hold 15 on a second. I want to make sure you have 16 Mr. Assaf's full attention. 17 Q I -- definitely do. 18 A Okay. 19 Q I think I know where this is going. 20 A I received many threatening letters and phone 21 calls, as well as personal conversations. 22 Typically the people I dealt with was an 23 individual, I believe his name was Scott 24 Martin, and then I know an individual named 25 Allen Joslyn. I don't recall if I dealt with</p>	<p style="text-align: right;">Page 125</p> <p>1 Most of my clients that worked in the 2 rubber plants, if not all, but certainly most 3 of them, talked about talc, or they referred to 4 it as soapstone exposure. It was I would use 5 the word ubiquitous in the rubber industry. It 6 was everywhere. 7 And as a -- but the problem that I had in 8 pursuing the talc case was that, you know, from 9 a product ID standpoint, the only company I 10 could make a good case against was Eastern 11 Magnesia Talc, but their talc didn't contain 12 asbestos, or so they said. And that was the 13 basis of our decision to settle the talc 14 companies. 15 Another fact I recall is at one point I 16 dismissed Eastern Magnesia Talc from some 17 cases. I received a phone call from Sam 18 Martillotta, who was the lead defense counsel 19 representing the talc entities in a global 20 negotiation, and I received a very angry phone 21 call from Mr. Martillotta, that why did I 22 dismiss Eastern Magnesia Talc. And I said 23 "Well, because their talc doesn't contain 24 asbestos." 25 And he said, well, you know, that makes</p>

<p style="text-align: right;">Page 126</p> <p>1 it, you know, difficult for us to do any type 2 of deals. And he still got a deal done. And I 3 was always surprised that Eastern Magnesia Talc 4 was on the paperwork. So he somehow got 5 Eastern Magnesia Talc to continue to 6 participate. 7 You know, there's probably more facts 8 involved. That's what I can recall at that 9 time. 10 Q And you told Mr. Placitella all of that? 11 A I don't know if I ever told him the John 12 Nardella story that I just told right now. 13 Q And did you tell any of your clients any of 14 that in -- 15 A Well -- 16 Q -- these five minute conversations? 17 A You took the notes of what I said, and that was 18 a summary of what -- what I said was a summary 19 of those facts. 20 Q And any of those facts in the complaint that 21 you know of? 22 A I don't recall. I haven't looked at that 23 complaint in quite some time, so I don't know. 24 Q In terms of the facts that you just gave me, do 25 you have any other facts?</p>	<p style="text-align: right;">Page 128</p> <p>1 A I don't know that we ever litigated that, 2 because, again, it's the same problem, which 3 is, you know, the time when I was litigating 4 Goodyear Aerospace cases, I was under the 5 belief that based on Eastern Magnesia Talc's 6 statement that their talc did not contain 7 asbestos. 8 Q Did you ever show to any Court that Goodyear 9 Aerospace used Emtal talc, yes or no? Any 10 Court. 11 A I don't believe that ever came up in a case. 12 Q Did you ever show any Court that Emtal talc was 13 used at Goodyear Aerospace, yes or no? 14 A I don't believe that ever came up. 15 Q Did you ever make an offer of proof that -- or 16 make an allegation that Emtal was used at 17 Goodyear Aerospace to any Court? 18 A Yeah, I don't -- I don't recall. 19 Q You didn't mention Mr. Kluznik. 20 A That name I'm familiar with. I don't -- I 21 don't recall. You know, I don't recall having 22 any dealings with Mr. -- I may have, but I just 23 don't recall that, because when we were 24 litigating these cases predominantly in the 25 '90s, early 2000s, it was always the Cahill</p>
<p style="text-align: right;">Page 127</p> <p>1 A I'm sure I have other facts. I know that's 2 what I can recall right now. I mean, I have a 3 lot of, you know, evidence that Eastern 4 Magnesia Talc sold very large quantities of 5 talc to the Akron rubber plants where my 6 clients worked. 7 Q Goodyear Aerospace? 8 A The Goodyear Aerospace is a little different, 9 because Goodyear Tire, the talc would have been 10 used in the floor tile manufacturing. In 11 Goodyear Tire, the floor tile was made in the 12 vinyl division, which was at the Goodyear 13 Aerospace facility, and the employees there 14 were Goodyear Aerospace employees working in 15 that, but vinyl division was a Goodyear Tire 16 division. And so Goodyear Tire central 17 purchasing did the purchasing for the vinyl 18 division. 19 Q So you believe that Emtal talc was used at 20 Goodyear Aerospace? 21 A I believe it would have been shipped from 22 Goodyear Tire over to Goodyear Aerospace. 23 Q Do you have proof of that? Withdrawn. 24 Did you ever supply a Court with proof of 25 that and a Court believed you?</p>	<p style="text-align: right;">Page 129</p> <p>1 Gordon people and it was always Scott Martin 2 and Allen Joslyn are the ones that I recall. 3 Q Well, you mentioned three attorneys that you 4 had three discussions with that weren't 5 associated with you; Martin, Joslyn, and a 6 fellow named Sam Martillotta. 7 A Yes. Yes. 8 Q By the way, do you know Mr. Martillotta? 9 A I know him, yes. 10 Q Based on your dealings with him, do you think 11 he has a reputation for honesty? 12 A I don't know. 13 Q Well, have you ever found him to be anything 14 but honest? 15 A Not that I know of. 16 Q We'll mark this. This is Defendants' 243. 17 Defendants' 243 is a printout from the 18 Mansour Gavin website of Samuel R. Martillotta. 19 Is this the person that you mentioned in 20 your recitation of the facts, Mr. Bevan? 21 A Yes, it is. 22 Q Okay. And you had dealings with him and 23 conversations with him regarding the settlement 24 of various talc cases? 25 A Yes.</p>

<p style="text-align: right;">Page 130</p> <p>1 Q And, in fact, you had both correspondence with</p> <p>2 him and telephone calls with him, correct?</p> <p>3 A Yes.</p> <p>4 Q And he was representing a group of talc</p> <p>5 defendants, correct?</p> <p>6 A Well, he was representing Southern Talc. He</p> <p>7 was -- as far as the settlement, he was the</p> <p>8 liaison for them, so I don't -- I don't</p> <p>9 believe. He certainly didn't hold himself out</p> <p>10 that he was representing anybody else.</p> <p>11 Q As far as you know, he was acting as settlement</p> <p>12 liaison counsel for a group of talc companies,</p> <p>13 correct?</p> <p>14 A That's how I would describe it.</p> <p>15 Q And based upon your dealings with him over the</p> <p>16 years, do you have any reason to question what</p> <p>17 he would say regarding the talc litigation that</p> <p>18 was anything but honest?</p> <p>19 MR. ROTH: Objection to</p> <p>20 form.</p> <p>21 Q Do you think he's a truth teller?</p> <p>22 A You know, at this point, I don't know. I don't</p> <p>23 know. From the defense side, what I've seen on</p> <p>24 Eastern Magnesia Talc shocks me, and so,</p> <p>25 frankly, I don't trust him all that much</p>	<p style="text-align: right;">Page 132</p> <p>1 to sit here and say you don't know whether he's</p> <p>2 honest or not?</p> <p>3 MR. McDERMOTT: Objection.</p> <p>4 MR. ROTH: Objection.</p> <p>5 A That is correct.</p> <p>6 Q But you don't have any facts to back that up?</p> <p>7 MR. ROTH: Objection.</p> <p>8 MR. McDERMOTT: Objection.</p> <p>9 Asked and answered.</p> <p>10 A No facts other than what BASF or Eastern</p> <p>11 Magnesia Talc and its lawyers, Cahill Gordon,</p> <p>12 did.</p> <p>13 MR. McDERMOTT: Move to strike.</p> <p>14 A Hopefully Mr. Martillotta's more honest than</p> <p>15 your clients were.</p> <p>16 MR. ASSAF: Move to strike.</p> <p>17 Q Do you have any facts?</p> <p>18 MR. ROTH: Asked and</p> <p>19 answered.</p> <p>20 Q You're a lawyer -- withdrawn.</p> <p>21 You're a lawyer, right, practicing law</p> <p>22 for a long time in this jurisdiction?</p> <p>23 A Yes.</p> <p>24 Q Yes. Okay.</p> <p>25 Now I'm asking you for facts that you</p>
<p style="text-align: right;">Page 131</p> <p>1 anymore either.</p> <p>2 Q Okay. Do you have any -- what's your factual</p> <p>3 basis for thinking that he's anything but</p> <p>4 honest?</p> <p>5 A Well, if the Eastern Magnesia Talc and the BASF</p> <p>6 people would so blatantly lie, why wouldn't</p> <p>7 other defendants lie as well?</p> <p>8 Q Other than the answer you gave, do you have any</p> <p>9 facts that you have personal knowledge of</p> <p>10 regarding Mr. Martillotta being dishonest?</p> <p>11 A No.</p> <p>12 Q So the answer you just gave me was you</p> <p>13 surmising. You don't have any facts, do you,</p> <p>14 Mr. Bevan?</p> <p>15 MR. ROTH: Objection to</p> <p>16 form and foundation.</p> <p>17 MR. McDERMOTT: Objection.</p> <p>18 A I didn't say it was a fact. I said based on</p> <p>19 the way Eastern Magnesia Talc and Cahill Gordon</p> <p>20 handled this matter, I don't trust any of you.</p> <p>21 Q Okay. And you think that's fair based upon</p> <p>22 your dealings with Mr. Martillotta? You</p> <p>23 can't even --</p> <p>24 MR. McDERMOTT: Objection.</p> <p>25 Q As another member of the Ohio Bar, you're able</p>	<p style="text-align: right;">Page 133</p> <p>1 could tell a judge regarding why you think</p> <p>2 Mr. Martillotta isn't honest. Do you have any</p> <p>3 facts?</p> <p>4 MR. ROTH: Objection.</p> <p>5 MR. McDERMOTT: Objection.</p> <p>6 Asked and answered.</p> <p>7 A I think I answered your question already.</p> <p>8 Q Do you have any facts?</p> <p>9 A I said I don't have any facts, I just don't</p> <p>10 trust him because of what Cahill Gordon and</p> <p>11 Eastern Magnesia Talc did in this case.</p> <p>12 MR. McDERMOTT: Continuing</p> <p>13 objection to this line of questioning.</p> <p>14 Q So let's turn to the second amended complaint.</p> <p>15 Let's start off with Ms. Pease.</p> <p>16 Can you turn to paragraph 20 on page 21</p> <p>17 of D Ex 1?</p> <p>18 By the way, in your meetings with</p> <p>19 Mr. Placitella, did he take notes?</p> <p>20 A I never saw him take any notes.</p> <p>21 Q Did you ever take any notes?</p> <p>22 A No.</p> <p>23 Q Did you ever provide him with any specific</p> <p>24 documents? In other words, "Here's a document</p> <p>25 I found, you should look at it"?</p>

<p style="text-align: right;">Page 134</p> <p>1 A Are we talking about Eastern Magnesia Talc or 2 other stuff? I'm sure I've given 3 Mr. Placitella documents over the years 4 unrelated to Eastern Magnesia Talc. 5 Q Well, I thought until this case you didn't know 6 Mr. Placitella? 7 A I don't think that's what I said. 8 MR. ROTH: Objection. 9 A I said I don't think I ever spoke to him. 10 Q Spoke to him, okay. 11 A But I wasn't sure I said. 12 Q Okay. So but since -- so regarding anything 13 regarding Engelhard, Eastern Magnesia Talc, the 14 Williams case, did you provide specific 15 documents to Mr. Placitella along the lines of 16 "I found this" or "You should look at this"? 17 A I think I have provided him, but I'm not sure. 18 I think I may have provided him something in 19 the Ross case. 20 Q So these stack of emails I'm getting to, I'm 21 going to ask a judge to review these emails and 22 I want to find out, are there going to be 23 emails in there in which you're conveying to 24 Mr. Placitella either facts or your 25 understanding of facts.</p>	<p style="text-align: right;">Page 136</p> <p>1 A I don't see anything else. 2 Q Well, you said you handled every aspect of 3 these clients' cases, correct? 4 A I said -- 5 MR. ROTH: Objection to 6 form. 7 A -- as a lawyer. 8 Q As a lawyer, yeah. 9 A I did the lawyering for them, yes. 10 Q So as a lawyer, would you explain to me what 11 happened to that Summit County case? 12 A We dismissed the case and refiled it in 13 Cuyahoga County. 14 Q And you dismissed it because the case wasn't 15 going well, fair? 16 MR. ROTH: Objection. 17 A I would say we dismissed it because we felt 18 that it was more prudent to pursue this case in 19 Cuyahoga County where we would have a judge 20 handling it. 21 Q You didn't think Judge Victor was up for the 22 task? 23 A Judge Victor wasn't handling the case. 24 Q Let me show you what's Defendants' Exhibit 135. 25 135 is a multiple page document entitled</p>
<p style="text-align: right;">Page 135</p> <p>1 MR. ROTH: So is there a 2 question? 3 MR. ASSAF: Yeah. 4 Q In those emails to Mr. Placitella, do you 5 provide him with your understanding of certain 6 facts or documents regarding this case? 7 MR. McDERMOTT: Objection. No 8 foundation. 9 A I thought I -- 10 MR. ROTH: Asked and 11 answered. 12 A -- answered that multiple times, which is I 13 think I gave him some facts. I'm not sure what 14 I put in the emails. 15 Q Regarding Ms. Pease. So first of all, if you 16 turn to paragraph 22, it says, "commenced an 17 asbestos injury lawsuit in Cuyahoga County." 18 Do you see that? 19 A Yes. 20 Q And further down, it says: This suit replaced 21 a Summit County asbestos personal injury case. 22 Correct? 23 A Yes. 24 Q There's nothing else about that, about that 25 Summit County case in there, is there?</p>	<p style="text-align: right;">Page 137</p> <p>1 "Memorandum and Support of Motion for Summary 2 Judgment for Lack of Product Identification on 3 Behalf of Eastern Magnesia Talc Company." 4 Do you see that? 5 A Yes. 6 Q You understand that Emtal moved for summary 7 judgment on product ID grounds in Summit 8 County? 9 A Yes. 10 Q And you believe that the Summit County Court 11 was going to grant that and you told your 12 client that it was better to dismiss and refile 13 in Cuyahoga County, correct? 14 A Yes -- 15 Q Withdrawn. 16 In words or in substance, you conveyed to 17 your client that you should dismiss because you 18 were going to lose on product ID grounds? 19 MR. ROTH: Objection. 20 A I thought we won this, by the way. 21 So I did not like having a magistrate 22 handling the case. It was Magistrate Shoemaker 23 handling the case, and I thought we were 24 better -- because the cases were starting to 25 move in Cuyahoga County. And so we dismissed</p>

<p style="text-align: right;">Page 138</p> <p>1 and refiled it in Cuyahoga County.</p> <p>2 Q Did you file an opposition to the product ID</p> <p>3 motion, or did you –</p> <p>4 A I'm not positive, but I thought we opposed that</p> <p>5 and that the motion was denied, the Eastern</p> <p>6 Magnesia motion was denied, but I –</p> <p>7 Q Let me show you Defendants' Exhibit 136.</p> <p>8 Defendants' Exhibit 136 is a document</p> <p>9 from Summit County.</p> <p>10 Do you recognize that?</p> <p>11 A Yes.</p> <p>12 Q What is it?</p> <p>13 A This is a dismissal pursuant to Ohio Civil Rule</p> <p>14 41(A) (1) of voluntary dismissal, which we</p> <p>15 filed in Summit County and then refiled the</p> <p>16 case in Cuyahoga County.</p> <p>17 Q Fair to say that you filed with a pending</p> <p>18 motion for summary judgment based on product</p> <p>19 ID?</p> <p>20 A Again, I think what I said was I thought that</p> <p>21 motion for summary judgment on product ID was</p> <p>22 denied, but I'm not certain.</p> <p>23 Q And then you refiled in Cuyahoga County,</p> <p>24 correct?</p> <p>25 A Cuyahoga, yes.</p>	<p style="text-align: right;">Page 140</p> <p>1 whether there was asbestos in their talc.</p> <p>2 Q But when you dismissed them, you said you</p> <p>3 believed them, so, in other words, when Allen</p> <p>4 Joslyn told you "Dismiss me because there's no</p> <p>5 asbestos in the talc," you say you believed</p> <p>6 him, correct?</p> <p>7 A Yes.</p> <p>8 Q Okay. And how long did that belief last?</p> <p>9 A I believe it lasted until I heard from</p> <p>10 Mr. Placitella. I believed that there was no</p> <p>11 evidence that there was asbestos in their talc.</p> <p>12 Q Okay. So after Mr. Joslyn related that story</p> <p>13 about the Nardella deposition and Mr. Joslyn</p> <p>14 threatening you, right?</p> <p>15 A Yes. And I don't know when the Nardella</p> <p>16 deposition was.</p> <p>17 Q Well, I think the Nardella deposition is</p> <p>18 actually in the prior motion for product ID.</p> <p>19 It's referenced. I don't know, you tell me.</p> <p>20 Take out the motion for summary judgment</p> <p>21 product ID. Right here. I think there's a</p> <p>22 reference to Nardella at the bottom.</p> <p>23 A Assuming that was the only Nardella deposition.</p> <p>24 I don't know if there was more than one or not.</p> <p>25 Q Okay.</p>
<p style="text-align: right;">Page 139</p> <p>1 Q And I'll show you Defendants' 137.</p> <p>2 Is this the complaint you filed?</p> <p>3 A It appears to be.</p> <p>4 Q At this time, what was your factual basis for</p> <p>5 asserting that your client was injured by Emtal</p> <p>6 talc?</p> <p>7 A Our belief was that Eastern Magnesia Talc</p> <p>8 supplied very large quantities of talc or</p> <p>9 soapstone to good – BFGoodrich, where</p> <p>10 Mr. Clark worked, and that perhaps we could</p> <p>11 develop a case that showed that Eastern</p> <p>12 Magnesia Talc contained asbestos.</p> <p>13 Q By June 20 of 1995, had Engelhard told you</p> <p>14 there was no asbestos in their talc?</p> <p>15 A Yes, I believe so.</p> <p>16 Q And did you rely on that information in</p> <p>17 dismissing prior cases?</p> <p>18 A In dismissing prior cases, yes.</p> <p>19 Q Did you believe Emtal when they told you there</p> <p>20 was no asbestos in the talc?</p> <p>21 A I believed it when I dismissed them.</p> <p>22 Q And then after you dismissed them, did you</p> <p>23 continue to believe there was no asbestos in</p> <p>24 the talc?</p> <p>25 A I believed that it was very questionable,</p>	<p style="text-align: right;">Page 141</p> <p>1 A I don't know.</p> <p>2 Q So Joslyn tells you in your words that there's</p> <p>3 no asbestos in the talc, right?</p> <p>4 A Yes.</p> <p>5 Q And you ask for proof of that, right?</p> <p>6 A Well, they sent me the affidavits or report.</p> <p>7 Q And you read those affidavits carefully,</p> <p>8 correct?</p> <p>9 A I read them, yes.</p> <p>10 Q In fact, you read them so – in such detail</p> <p>11 that you actually had questions on them,</p> <p>12 correct?</p> <p>13 A I think I may have, you know, questioned it.</p> <p>14 Q Okay. So Joslyn tells you no asbestos in the</p> <p>15 talc. He sends you supporting affidavits,</p> <p>16 which you read carefully and in detail, fair?</p> <p>17 A Yes.</p> <p>18 Q And then at that point, in your mind, you say</p> <p>19 you believed the position that there was no</p> <p>20 asbestos in the talc?</p> <p>21 A I believed that there was no evidence of</p> <p>22 asbestos in their talc.</p> <p>23 Q And then after that, you continue to file</p> <p>24 cases?</p> <p>25 A Yes.</p>

<p style="text-align: right;">Page 142</p> <p>1 Q And so what's your -- your good faith factual 2 basis for filing a claim against Emtal saying 3 that there's asbestos in their talc? 4 A The -- one of the reasons why we filed was 5 because the other defendants were pointing the 6 finger at the talc exposure and pointing it at 7 Eastern Magnesia Talc, and the one that was 8 particularly aggressive on that was Owens 9 Coming. 10 And it created a problem if they're able 11 to point to the empty chair. And so by having 12 Eastern Magnesia Talc in the case, they're not 13 pointing to the empty chair, because Eastern 14 Magnesia Talc, they're saying, "No, our talc 15 does not contain asbestos." 16 And then it was our intent to let the 17 Court then settle it, and if the Court said, 18 "No asbestos in the Eastern Magnesia Talc," 19 then that would cut off the defense by Owens 20 Coming, amongst others, that it was the talc 21 that was causing the mesothelioma, not their 22 product. 23 So it was a -- a legal strategy is why we 24 continued to sue Eastern Magnesia Talc. That, 25 plus the conversation with Sam Martillotta,</p>	<p style="text-align: right;">Page 144</p> <p>1 reasons, for the empty chair? 2 MR. ROTH: Objection to 3 the form. 4 A Well, and, again, Sam Martillotta said they 5 needed to be at the table to be able to do 6 deals, one. 7 And two, the other defendants were 8 pointing the finger at talc as being the cause 9 of my client's disease and rather than have the 10 big, empty chair, which was Eastern Magnesia 11 Talc, which was the big player in the Akron 12 rubber industry, as far as talc goes, rather 13 than have the empty chair there, we would sue 14 Eastern Magnesia Talc to allow them to defend 15 their position. Otherwise we would have had 16 Owens Coming pointing at the talc as being the 17 cause of it and not have a response to it. 18 Q Owens Coming doesn't have -- manufacture talc 19 or produce talc? 20 A Not that I'm aware of. 21 Q Correct. 22 Owens Coming as an asbestos defendant 23 was encouraging you to bring in talc defendants 24 to shift responsibility? 25 MR. ROTH: Objection to</p>
<p style="text-align: right;">Page 143</p> <p>1 which would have come after this time, which 2 was "Eastern Magnesia Talc's got to be at the 3 table if you want to have any deals. Don't 4 dismiss Eastern Magnesia Talc." And that was 5 why we continued to sue Eastern Magnesia Talc. 6 Q So in terms of just the chronology, you say you 7 believed the position that Emtal had no 8 asbestos in the talc, or did you not believe 9 that? 10 A I believed what he told me, which was "We 11 tested our talc multiple times, it never 12 contained any asbestos. There was no evidence 13 of any asbestos ever in our talc." 14 Q You believed that? 15 A I believed it when he told me that. 16 Q So as a factual matter, in the 1990s, you 17 believed that there was no asbestos in the 18 Emtal talc, true? 19 A Yes. 20 Q So that's point one on facts. 21 But you continued to sue Emtal for legal 22 strategic issues, correct? 23 A Correct. 24 Q The issue that another asbestos defendant 25 suggested you should sue them for tactical</p>	<p style="text-align: right;">Page 145</p> <p>1 form. 2 A I wouldn't say they were encouraging me to 3 bring in, they were pointing the finger at 4 talc. And so in response to that, I thought it 5 was important to have the talc players there to 6 defend against that. And in deposition, the 7 Owens Coming attorneys and the talc attorneys 8 would clash. 9 Q Did Owens Coming ever convey to you in words, 10 in substance, that they wanted you to bring 11 Emtal into lawsuits? 12 MR. ROTH: Objection. 13 Form and foundation. 14 A No. They never asked me to bring anybody in. 15 I did that in response to their defense 16 strategy. And that was my strategy in response 17 to that. 18 Q So in terms of the other talc manufacturers or 19 producers, did you believe at that point that 20 there were any other talc companies that had 21 asbestos in their talc? 22 MR. ROTH: At what point 23 are you talking about? 24 Q Mid-1990s. 25 A Evidence in the mid-1990s that I would have had</p>

<p style="text-align: right;">Page 146</p> <p>1 would have included -- I recall a study of 2 Milwhite talc by I believe it was by NIOSH that 3 showed asbestos in Milwhite talc. 4 Possibly Cyprus. I'm not sure. I don't 5 recall for sure on Southern Talc. I don't 6 recall anything on Georgia Talc. 7 Q I'll show you. I'll show you Southern Talc in 8 a second. 9 A Okay. So yeah. I mean I had some, yes, you 10 know. 11 Q So I understand the Owens Coming tactical 12 issue and I understand the Sam Martillotta 13 alleged encouragement to bring Emtal in to 14 share the pain of the litigation, but I'm 15 trying to understand what was your good faith 16 factual basis since you as an attorney 17 believed -- you say you believed that when 18 Emtal said they had no asbestos in their talc. 19 What was your good faith factual basis 20 for bringing in Emtal? 21 MR. ROTH: Objection. 22 A Again, it was a -- it was a strategic reason, 23 which was to provide a shield to this defense 24 that Owens Coming was putting forth that it 25 was the talc, not their product.</p>	<p style="text-align: right;">Page 148</p> <p>1 Magnesia Talc when I filed these cases. 2 Q And yet you continued to file them? 3 A Yes. 4 Q And, again, I'm trying to understand under the 5 Ohio equivalent Rule 11 what's your good faith 6 factual basis for continuing to file against 7 Emtal? 8 A And I'm telling you it was the other defendants 9 pointing the finger at the talc defendants. So 10 either they get out and that eliminates that 11 defense by the other defendants, or they stay 12 in and there's not an empty chair at trial. 13 One or the other. Or we settle the cases. 14 Q But they're -- would you agree with me, they're 15 tactical reasons, they have nothing to do with 16 Emtal's product and what you believe, they're 17 your lawyer strategic reasons based on 18 discussions with Owens Coming or your 19 perception of Owens Coming? 20 A It wasn't based on discussions with Owens 21 Coming, it wasn't my perception, it's what I 22 saw Owens Coming doing in defense of these 23 cases. And so I had an entity out there saying 24 there's asbestos in that talc. And so that was 25 my basis for filing the suit against Eastern</p>
<p style="text-align: right;">Page 147</p> <p>1 Q Aside from the tactical reason, the legal 2 tactical reason that -- regarding Owens 3 Coming, I'm asking what's your good faith 4 factual basis in 1995 to continue to file 5 lawsuits against Emtal? 6 A I don't, you know, beyond that. That's what my 7 reason was. 8 Q But you -- you didn't have any good faith 9 factual basis to believe there was asbestos in 10 the talc? 11 A I had no evidence that there was asbestos in 12 the talc, that is correct. 13 Q Well, no, no, no. You put it stronger than 14 that, Mr. Bevan. 15 Your testimony is you believed there was 16 no asbestos in the talc -- 17 MR. ROTH: Objection to 18 form. 19 Q -- right? 20 MR. ROTH: Foundation. 21 A No. No. I believed what Mr. Joslyn and 22 Mr. Martin told me, that they had tested it and 23 they never found any evidence of asbestos in 24 it. So it was an asbestos free talc. I had no 25 evidence that there was asbestos in the Eastern</p>	<p style="text-align: right;">Page 149</p> <p>1 Magnesia Talc. 2 Q You had an entity out there saying what? 3 A That there was asbestos in talc, in the talc, 4 and that's what caused my clients' injuries. 5 Q Which entity was saying that? 6 A That's Owens Coming. 7 Q Okay. But you just said they weren't saying 8 anything about Emtal, they were saying talc 9 generally? 10 A They were saying talc generally, and what I 11 said was I didn't have discussions with Owens 12 Coming about this, it's what I witnessed them 13 doing in defense of rubber worker asbestos 14 cases. 15 Q You never had a discussion with Owens Coming 16 regarding Emtal? 17 A I don't -- I don't think so. 18 Q And you never saw any pleadings by Owens 19 Coming saying there's asbestos in Emtal talc? 20 A I don't recall seeing any pleadings on it. 21 Q Let me show you what's been marked as 22 Defendants' Exhibit 138. 23 This is entitled "Motion for Summary 24 Judgment and to Dismiss of Behalf of Eastern 25 Magnesia Talc Company."</p>

<p style="text-align: right;">Page 150</p> <p>1 On the ground that the statute of 2 limitations has run and to dismiss the 3 consortium claim for insufficient service and 4 lack of personal jurisdiction. 5 Do you see this? 6 A Yes. 7 Q Do you know what happened with this case -- 8 with this motion? 9 A I don't know what happened to it. I assume it 10 was denied, but maybe it was never ruled upon. 11 I don't know. 12 Q Let me show you Defendants' Exhibit 139. 13 Defendants' Exhibit 139 is an order dated 14 9/23/97. 15 Do you see that? 16 A Yes. 17 Q It says, "Motion by Emtal for summary judgment 18 is withdrawn as moot." 19 Do you see that? 20 A Yes. 21 Q And do you know why it was withdrawn as moot? 22 A I don't know. I believe that prior to that we 23 had settled with the talc entities. I don't 24 know. 25 Q And you settled with the group of the talc</p>	<p style="text-align: right;">Page 152</p> <p>1 A You know, if we responded to a summary 2 judgment, we would have presented whatever 3 evidence we had that Southern Talc contained 4 asbestos. 5 Q And notwithstanding the fact that you had 6 evidence of Southern Talc having asbestos in 7 it, you still allowed them to be part of the 8 group settlement? 9 A Yes. 10 Q Okay. Let me show you what's been previously 11 marked as Defendants' Exhibit 12. 12 Defendants' Exhibit 12 was previously 13 marked. It's Pease versus Owens Corning, et 14 al, and if you turn to page 15, it says 15 plaintiffs -- the bottom of the page, 16 Mr. Bevan. 17 "Plaintiffs refer the Court to a 18 September 10, 1971 Harwick Document in which 19 Plaintiffs have highlighted a barely legible 20 note written by Harwick personnel which states: 21 'Jan Scotland has informed us that BFGoodrich 22 is discontinuing the purchase of Code 26 23 (A-White Talc) due to the asbestos content. He 24 indicated 'this is not a new problem...' 25 BFGoodrich, however, did not create a 'ho</p>
<p style="text-align: right;">Page 151</p> <p>1 entities, including Emtal, correct? 2 A Yes. 3 Q Now let me show you this. 247. 4 Defendants' Exhibit 247 is a notice of 5 dismissal. Georgia Talc, Harwick Chemical, 6 Eastern Magnesia, International Talc, R.T. 7 Vanderbilt, Johnson & Johnson, and Southern 8 Talc. Do you see that? 9 A Yes. 10 Q So this was one of those group talc 11 settlements? 12 A Yes. 13 Q And this is in -- on the fourth of December, 14 1998, correct? 15 A I can't read it, but it sounds about right. 16 Q Now, at the time, you dismissed Southern Talc 17 as part of this group, correct? 18 A Yes. 19 Q And at this point you have evidence that 20 Southern Talc has asbestos in its talc, 21 correct? 22 A I think I had something on Southern Talc, yes. 23 Q In fact, you told the Court you have evidence 24 that there's asbestos in Southern talc, 25 correct?</p>	<p style="text-align: right;">Page 153</p> <p>1 asbestos' talc specification until seven years 2 later. (See Exhibit 25)." And then it 3 continues. 4 "Also, BFGoodrich did not remove 5 asbestos-containing 'White Talc' from Southern 6 Talc from its supplier list until 1980. (See 7 Exhibit 26)." 8 Correct? 9 A Correct. 10 Q Now, Nancy Pease's husband had worked at 11 BFGoodrich prior to 1980, correct? 12 A Yes. 13 Q Okay. So he would have been exposed to 14 Southern Talc at BFGoodrich, according to your 15 papers? 16 A There's where the product ID becomes 17 problematic for us. Southern Talc -- there was 18 a document that said Southern Talc contained 19 asbestos. The question was evidence of 20 Southern Talc sales to Goodrich, and that's 21 where the problem arose. 22 Q Well, you refer to internal documents from 23 BFGoodrich regarding Southern Talc, right, on 24 page 15 and 16? 25 A Yes.</p>

<p style="text-align: right;">Page 154</p> <p>1 Q Okay. So you thought you had product ID 2 covered? 3 A No. I knew I had a problem with product ID 4 with Southern Talc. I had a big problem with 5 product ID with Southern Talc. 6 Q Not according to your papers. Your papers 7 suggest that BFGoodrich used Southern Talc. 8 A I don't have evidence that they did during this 9 time period. Let's see. 1971. 1980. 10 Q Well, let's try it this way, Mr. Bevan: If you 11 had no evidence of product ID, why were you 12 suing Southern Talc? 13 A I thought I would be able to develop evidence 14 that they did. 15 Q At the time -- after this complaint, though, is 16 it your position you understood that Southern 17 Talc was not used by BFGoodrich? 18 A No. No, I'm not saying that Southern Talc 19 wasn't used. My recollection is that there was 20 some small sales late in time of Southern Talc, 21 either the late '70s or the early '80s, small 22 quantities. And in the '70s, most of the '70s, 23 it was -- and in the '60s it was Eastern 24 Magnesia Talc. That was what the evidence 25 showed.</p>	<p style="text-align: right;">Page 156</p> <p>1 asbestos-like particles in it, correct? 2 A Yes. 3 Q Okay. And you understood that Southern Talc 4 was used in other facilities in Ohio, correct? 5 You didn't have any product ID at all? 6 A I have never seen -- the only product ID that I 7 can recall of Southern Talc would have been in 8 the early 1950s. I don't think I've ever seen 9 any evidence of Southern Talc sales in the '60s 10 and I don't think in the '70s. Maybe around 11 1980 or so, but I -- you know, there may have 12 been some sales, but going back to looking -- 13 you were asking about other plants in Ohio. 14 I don't recall ever -- I'm not sure about 15 Goodyear and General Tire and Firestone, other 16 than if I had any evidence, it would have been 17 in the early '50s or in the '50s sometime. I 18 don't recall anything in the '60s or the '70s. 19 Q When did you come to the conclusion that you 20 had no product ID evidence for Southern Talc in 21 the Ohio plants? 22 A During the course of this case. You know, 23 you're seeing some documents here. And, you 24 know, if I would have had good evidence of 25 exposure, I presumably would have put that in</p>
<p style="text-align: right;">Page 155</p> <p>1 I had scant evidence of sales of R.T. 2 Vanderbilt, scant evidence of Milwhite. I 3 believe there was a shipment of Milwhite maybe 4 in the '80s. Scant evidence for Cyprus, 5 International Talc, all of those. 6 The predominant evidence was Eastern 7 Magnesia Talc. 8 Q Could you turn to Exhibit 26? 9 A Yeah. 10 Q It's towards the ends. It's like five, six 11 pages from the end. 12 Do you see it? 13 A Yes. 14 Q June 11, 1980. It's an internal BFGoodrich 15 document? 16 A Yes. 17 Q And it says, "Recent Raw Materials 18 investigation has found that all talc supplied 19 by Southern Talc contains significant amounts 20 of asbestos-like particles, (tremolite)." 21 Do you see that? 22 A Yes. 23 Q So at this point, in 1997, you know that there 24 are internal documents showing that Southern 25 Talc, wherever it's used, had evidence of</p>	<p style="text-align: right;">Page 157</p> <p>1 there. 2 Q Okay. So as of 1997, you would have concluded 3 that you had no product ID evidence for 4 Southern Talc in the Ohio facilities? 5 A No, no good -- I mean, I'm not saying there's a 6 total lack of evidence, but no real good 7 evidence to be able to, you know, effectively 8 pursue. 9 Q Why would you continue to be able to sue 10 Southern Talc? 11 A It's the same situation as Eastern Magnesia, 12 which is the other defendants are pointing at 13 things, such as this document that you're 14 pointing at here, and if I have an empty chair 15 there, then it puts my client at a 16 disadvantage. 17 Q So even though you factually believed there was 18 no product ID support, you continued to file 19 claims against Southern Talc, fair? 20 MR. ROTH: Objection. 21 Foundation. 22 A Yes, but factually, at that time, you know, 23 you're seeing some of the best stuff I had, 24 which is, you know, probably not enough to get 25 by a summary judgment motion.</p>

<p style="text-align: right;">Page 158</p> <p>1 Q But it's enough, in your mind, to meet your 2 Rule 11 obligation? 3 A Yes. 4 Q And have you told Southern Talc in pleadings 5 that you feel as though there's no evidence of 6 product ID? 7 MR. ROTH: Objection. 8 Form, foundation. 9 A I doubt it. 10 Q No. And when you file a complaint, do you tell 11 the Court that? 12 A No. 13 Q Why not? 14 A Because I'm able to try to develop my client's 15 case. 16 Q But you say you've now looked at this and you 17 know there's no product ID for Southern Talc? 18 MR. ROTH: Objection. 19 Q What are you trying to develop, Mr. Bevan? 20 MR. ROTH: Objection. 21 A I guess the same thing that we developed now 22 against Eastern Magnesia Talc, that maybe 23 there's hidden records, maybe there's something 24 there that the defense lawyers or the defendant 25 is not being honest about, just like Eastern</p>	<p style="text-align: right;">Page 160</p> <p>1 didn't exist or they didn't show sales? 2 A We never got anything. So ... 3 Q Why not? 4 A Well, either they didn't make the sales, which 5 is what is probably the most likely excuse, or 6 they lied like BASF lied. 7 Q Are you still filing cases against Southern 8 Talc? 9 A I don't know that we've filed a case in some 10 time against Southern Talc. 11 Q When was the last case you filed? 12 A I don't know. I am not -- I have not litigated 13 a case with Southern Talc in many years, maybe 14 going on ten years. Whether they're still 15 pending in some pending cases, whether they're 16 still a defendant in some pending cases, I 17 don't know, but we have not, that I can recall, 18 actively litigated a case against Southern Talc 19 in many years. 20 Q Do you think it was fair for Southern Talc to 21 continue to be sued by your client after you 22 concluded there was product ID problems? 23 MR. McDERMOTT: Objection. 24 MR. ROTH: Objection. 25 A I -- I didn't have a concern with it and</p>
<p style="text-align: right;">Page 159</p> <p>1 Magnesia Talc was not honest. 2 Q So when you were filing, continuing to file 3 cases against Southern Talc throughout the late 4 1990s and 2000s, you were still skeptical as to 5 whether Southern Talc had product ID that they 6 were somehow concealing from you? 7 MR. ROTH: Objection. 8 A I would say that I was still hopeful that maybe 9 I would be able to develop some evidence. At a 10 bare minimum, it would fend off the defense of 11 the other defendants. 12 Q What evidence could you have developed? You 13 seem like you knew exactly what -- let me 14 finish. Withdrawn. 15 What evidence after 1997 did you think 16 you needed to develop in order to build a 17 product ID case that you didn't have in 1997? 18 MR. ROTH: Objection. 19 A Perhaps somebody would have come forward with 20 the sales records, that in fact they did sell 21 during these relevant time frames. 22 Q Did you continue to ask for those sales 23 records? 24 A Yes. 25 Q And did they continue to tell you that they</p>	<p style="text-align: right;">Page 161</p> <p>1 Southern Talc didn't have a concern with it. 2 Q So you continued to file cases against Southern 3 Talc and you think Southern Talc thought that 4 was perfectly fine? 5 MR. ROTH: Objection. 6 MR. McDERMOTT: Same objection. 7 A I'm sure they didn't like getting sued, but it 8 was never brought to my attention that hey, 9 there's a problem with this. 10 Q Well, they probably didn't like being sued when 11 the plaintiffs' lawyer had concluded that he 12 had product ID problems and that Southern Talc 13 actually wasn't in Ohio facilities that he was 14 suing for. 15 MR. McDERMOTT: Objection. 16 MR. ROTH: Objection. 17 A I think you're mischaracterizing my statement, 18 but I don't know if that's a question or not. 19 Q Okay. So you settled with all of the talc 20 manufacturers in this -- in Pease, correct? 21 A I believe so. 22 Q Even the ones that have product ID problems, 23 correct? 24 A Yes. 25 Q And the ones that have asbestos in their talc,</p>

<p style="text-align: right;">Page 162</p> <p>1 correct?</p> <p>2 A Yes.</p> <p>3 Q And you settle for how much money?</p> <p>4 A My recollection was it was \$1,000 a case across</p> <p>5 the board for 290-some cases or something.</p> <p>6 That's my recollection.</p> <p>7 Q Did you tell your clients, like Ms. --</p> <p>8 withdrawn.</p> <p>9 Regarding Mrs. Pease, did you tell her or</p> <p>10 her husband why you were settling the talc</p> <p>11 cases?</p> <p>12 A I'm sure we had a discussion, yes. In fact, I</p> <p>13 believe that talc settlement came as a result</p> <p>14 of a Court ordered settlement conference. I</p> <p>15 don't know if Nancy Pease was there. She may</p> <p>16 have been there out in the hallway.</p> <p>17 Q Have you talked to Gayle Williams about the</p> <p>18 Pease case?</p> <p>19 A I've talked to her one time.</p> <p>20 Q You know she's a plaintiff in this case?</p> <p>21 A Yes, I know that she's --</p> <p>22 Q Did you talk to her about this case?</p> <p>23 A I just -- I met her, you know, and we just</p> <p>24 exchanged pleasantries. You know, she knew of</p> <p>25 me because I had been representing the family</p>	<p style="text-align: right;">Page 164</p> <p>1 Q You don't know whether you have a fee</p> <p>2 arrangement with Cohen, Placitella regarding</p> <p>3 the Williams class action?</p> <p>4 A I'd have to take a look at it, whether it</p> <p>5 applies to -- no, whether it applies to the</p> <p>6 Clark case is what you were asking me.</p> <p>7 Q She's a named representative in the Williams</p> <p>8 case.</p> <p>9 A Yes.</p> <p>10 Q You don't think it applies?</p> <p>11 A I'd have to take a look at the agreement to see</p> <p>12 whether it applies or not.</p> <p>13 Q When did you enter into the agreement?</p> <p>14 MR. ROTH: Objection.</p> <p>15 MR. McDERMOTT: Same objection.</p> <p>16 A I don't recall. I think it was many years ago.</p> <p>17 Q Was it written?</p> <p>18 A Yes.</p> <p>19 Q Was it negotiated?</p> <p>20 MR. ROTH: I'm sorry. I</p> <p>21 missed the last question.</p> <p>22 Q Was it negotiated?</p> <p>23 MR. ROTH: Objection.</p> <p>24 MR. McDERMOTT: Same objection.</p> <p>25 MR. ROTH: Don't answer.</p>
<p style="text-align: right;">Page 163</p> <p>1 for many years, but I don't think we really</p> <p>2 talked much in detail that I can recall. We</p> <p>3 may have. It wasn't much.</p> <p>4 Q Did you convey to her whether you would be</p> <p>5 compensated for the class action lawsuit?</p> <p>6 A I don't think that came up. I don't recall.</p> <p>7 Q Well, if she's your client, right, you would</p> <p>8 expect her to know?</p> <p>9 A Are you asking me a question?</p> <p>10 Q Yeah.</p> <p>11 A What's the question?</p> <p>12 Q Would you expect your client to be informed by</p> <p>13 you of whether you have a fee arrangement to be</p> <p>14 compensated in the Williams class action?</p> <p>15 MR. ROTH: Objection.</p> <p>16 A I don't -- I don't know that I have a fee</p> <p>17 arrangement on her case. I don't -- you know,</p> <p>18 if they're successful in settling the Pease</p> <p>19 case, I don't know that I have a fee</p> <p>20 arrangement. I don't know that.</p> <p>21 Q I thought you said you do have a fee</p> <p>22 arrangement --</p> <p>23 A I said I've got fee arrangements with them on</p> <p>24 the Clark case. I don't know. I would have</p> <p>25 to -- I would have to look. I don't know.</p>	<p style="text-align: right;">Page 165</p> <p>1 MR. McDERMOTT: Don't answer</p> <p>2 that.</p> <p>3 Q You can answer.</p> <p>4 MR. McDERMOTT: You're ruling</p> <p>5 on that.</p> <p>6 MR. ASSAF: No, I'm not.</p> <p>7 I'm not asking him the terms of it, I want to</p> <p>8 know whether it was negotiated.</p> <p>9 MR. McDERMOTT: Those are the</p> <p>10 terms. Please.</p> <p>11 MR. ASSAF: Are you</p> <p>12 instructing?</p> <p>13 MR. McDERMOTT: Not to answer.</p> <p>14 THE WITNESS: Okay. I won't</p> <p>15 answer it.</p> <p>16 Q Do you have a copy of it?</p> <p>17 A Yes.</p> <p>18 MR. McDERMOTT: Same objection.</p> <p>19 Q Have you ever provided notice of that written</p> <p>20 agreement to any of the named plaintiffs in the</p> <p>21 Williams class action?</p> <p>22 MR. ROTH: Objection to</p> <p>23 form.</p> <p>24 A I don't recall. I know that there's a fee</p> <p>25 agreement that those clients signed on that</p>

<p style="text-align: right;">Page 166</p> <p>1 case and I have to look at that fee agreement 2 to see what it says. If it includes me or if 3 the fee agreement's just with the Placitella 4 firm, I don't know. I have to take a look. 5 Q Whose idea was the \$1,000 a case? 6 A You know, I think that -- that really came from 7 what the talc defendants did with several other 8 firms in a negotiation with Akron rubber worker 9 cases. It included the Colley firm, the 10 Spangenberg firm, and the Smith firm it was my 11 recollection. And I think on some of these 12 cases they paid a little bit more on, but 13 that's what I can recall, the best I can 14 recall. 15 Q Did you and Mr. Martillotta discuss whether it 16 would be 1,000 or 10,000? 17 A I'm sure we discussed it. I think we discussed 18 it more in terms of a total number and then we 19 applied it to the cases. They had it in their 20 mind that it was whatever per case. For us it 21 was, yes, per case. I don't know if our 22 numbers were the same as their numbers, as far 23 as -- 24 Q When you say it was developed by the talc 25 defendants, what do you mean by that?</p>	<p style="text-align: right;">Page 168</p> <p>1 defendants who may have had a good product ID 2 case or a weak product ID case, correct? 3 MR. ROTH: Objection to 4 the form. 5 A Yes. 6 Q They may have had asbestos in their talc or no 7 asbestos in their talc, correct? 8 A Correct. 9 MR. ROTH: Objection. 10 Q They may have had a statute of limitations 11 problem or no statute of limitations problem, 12 correct? 13 MR. ROTH: Objection. 14 A I don't recall a statute of limitations 15 problem. 16 Q Well, we just saw that Pease was the subject of 17 a motion for statute of limitation -- 18 A That's what Eastern Magnesia said. I don't 19 believe there was a problem with that. 20 Q The seven different talc companies had 21 different weaknesses and strengths, in terms of 22 their defenses, fair? 23 MR. McDERMOTT: Objection. 24 A Yes. 25 Q And notwithstanding those strengths and</p>
<p style="text-align: right;">Page 167</p> <p>1 A There was -- these weren't the first Akron 2 rubber worker cases to be settled with talc 3 defendants. There was other cases that were 4 settled by those other three firms that I 5 mentioned, and I think this deal kind of fell 6 in line with those other deals. 7 Q Is this the aggregate settlement program? Is 8 that a name for this? 9 A I would call it a global settlement. That's 10 what I would call it. 11 Q Okay. In terms of the global settlement 12 program, though, those numbers were being used 13 by talc defendants who had strong product ID 14 cases and weak product ID cases, correct? 15 A They were -- those types of talc defendants 16 were part of that group. What, you know, each 17 defendant used for their numbers and how it 18 divvied up, I was not privy to whether it was 19 an equal -- equally split amongst the seven 20 defendants I think or whether certain 21 defendants paid more. I was not privy to any 22 of that. 23 Q All you know is your client got \$1,000? 24 A Yes. 25 Q And that \$1,000 came from a group of talc</p>	<p style="text-align: right;">Page 169</p> <p>1 weaknesses, your client was getting \$1,000, 2 correct? 3 A Yes. 4 Q Were there any global settlements that you 5 negotiated with Mr. Martillotta that excluded 6 certain individuals because they said they had 7 a really strong case against a particular talc 8 manufacturer? 9 A I don't recall that. I think there may have 10 been some plaintiffs that got paid more, but I 11 don't -- 12 Q As we sit here today, you can't identify a 13 single plaintiff in which you negotiated an 14 exception to the global talc settlements, true? 15 A An exception, yeah, I don't think so. I mean, 16 we may have -- as part of the global deal, that 17 was all accounted for, but I don't recall doing 18 a deal that we're settling these cases, but, 19 you know, these eight cases over here being 20 carved out. No, that was not -- 21 Q If there was an individual with a particularly 22 strong case against a particular talc 23 manufacturer, they still were part of the 24 global from your client base? 25 A Well, we didn't have any strong cases, again,</p>

<p style="text-align: right;">Page 170</p> <p>1 based on what we had to deal with, which was,</p> <p>2 you know, what -- Eastern Magnesia Talc, from a</p> <p>3 product ID, they were far and away the</p> <p>4 strongest defendant. And obviously from an</p> <p>5 asbestos content, what we know now is that was</p> <p>6 a very strong defendant as well, but at the</p> <p>7 time, what we were dealing with was a very</p> <p>8 strong product ID case but a weak or</p> <p>9 nonexistent asbestos content case.</p> <p>10 Q For the Bevan plaintiffs, were you able to show</p> <p>11 product ID against R.T. Vanderbilt?</p> <p>12 MR. ROTH: Objection to</p> <p>13 form.</p> <p>14 A I don't believe. That was a real problem. The</p> <p>15 product ID with R.T. Vanderbilt was a big</p> <p>16 problem, and I don't know that -- for instance,</p> <p>17 this group, this 290 that you gave me, those</p> <p>18 were Goodyear and Goodrich cases. I don't</p> <p>19 believe we had any ID at Goodrich.</p> <p>20 I believe there was a shipment in a</p> <p>21 specific year to Goodyear, maybe 1978, of a</p> <p>22 small amount of R.T. Vanderbilt talc, but R.T.</p> <p>23 Vanderbilt was a tough one from a product ID</p> <p>24 standpoint. Very tough.</p> <p>25 Q Do you continue to sue R.T. Vanderbilt, even</p>	<p style="text-align: right;">Page 172</p> <p>1 taken to trial?</p> <p>2 A None.</p> <p>3 Q You know there's an allegation here that the</p> <p>4 plaintiff would have taken her case to trial,</p> <p>5 correct?</p> <p>6 A Rather than take whatever they paid, sure.</p> <p>7 Yes.</p> <p>8 Q So she would be the only one of the 2,653</p> <p>9 people ever to have taken a talc case to trial?</p> <p>10 MR. ROTH: Objection to</p> <p>11 the form and foundation.</p> <p>12 Q At least within the Bevan Firm.</p> <p>13 MR. ROTH: Objection.</p> <p>14 A No. No.</p> <p>15 MR. ROTH: Excuse me.</p> <p>16 A I disagree.</p> <p>17 MR. ROTH: Mr. Bevan, hold</p> <p>18 on one second.</p> <p>19 Objection to form and foundation. Thank</p> <p>20 you.</p> <p>21 THE WITNESS: Sorry.</p> <p>22 A No, we would have -- if --</p> <p>23 Q Withdrawn.</p> <p>24 A -- Eastern Magnesia Talc was not going to pay</p> <p>25 fair settlements based on the truth, then we</p>
<p style="text-align: right;">Page 171</p> <p>1 though they're tough product ID cases?</p> <p>2 A I don't know when we last sued R.T. Vanderbilt.</p> <p>3 Q You have cases pending against them today,</p> <p>4 don't you?</p> <p>5 A We've got cases pending. So whether there's</p> <p>6 talc defendants in those cases, I don't know,</p> <p>7 probably.</p> <p>8 Q Have you ever told --</p> <p>9 A But I don't think that we're actively</p> <p>10 litigating any case against R.T. Vanderbilt</p> <p>11 right now that I'm aware of.</p> <p>12 Q Have you --</p> <p>13 A There might be a case.</p> <p>14 Q Have you disclosed to R.T. Vanderbilt or any</p> <p>15 Court that you have a weak product ID case?</p> <p>16 MR. ROTH: Objection to</p> <p>17 form.</p> <p>18 MR. McDERMOTT: Same objection.</p> <p>19 A They know what our product ID case is and they</p> <p>20 challenge us on it.</p> <p>21 Q And you continue to sue them?</p> <p>22 A In some cases I have.</p> <p>23 Q Okay. So Pease.</p> <p>24 By the way, out of all of the talc cases</p> <p>25 that you've handled, how many of them have you</p>	<p style="text-align: right;">Page 173</p> <p>1 would have taken multiple cases to trial.</p> <p>2 Q Could you tell us how many talc cases you have</p> <p>3 taken to trial in your career?</p> <p>4 A I think I --</p> <p>5 MR. ROTH: Asked and</p> <p>6 answered.</p> <p>7 A -- already told you. None.</p> <p>8 Q All right. Let's do Holley.</p> <p>9 Okay. Now, Ms. Holley, did you talk to</p> <p>10 her or Ms. Wengerd about this lawsuit?</p> <p>11 A You're talking about two different cases, you</p> <p>12 understand?</p> <p>13 Q I'm sorry.</p> <p>14 Did you talk to Ms. Damell about this</p> <p>15 lawsuit?</p> <p>16 A Well, she was dead by the time we initiated</p> <p>17 this lawsuit.</p> <p>18 Q And did you talk to Ms. Holley about it?</p> <p>19 A Yes.</p> <p>20 Q That was that five-minute conversation?</p> <p>21 A Yes.</p> <p>22 Q Did you have any discussions -- hold on.</p> <p>23 Did you ever discuss the underlying</p> <p>24 Engelhard case with Ms. Holley? Yes or no.</p> <p>25 A What do you mean by "the underlying Engelhard</p>

<p style="text-align: right;">Page 174</p> <p>1 case?"</p> <p>2 Q So Mr. Placitella called you up, and you I</p> <p>3 think said you called Ms. Holley, and did you</p> <p>4 tell her any facts regarding the underlying</p> <p>5 case? Why it was dismissed, what it was about,</p> <p>6 how you were lied to in the underlying case?</p> <p>7 A I think I already told you that in detail and</p> <p>8 you took notes about the things. That Eastern</p> <p>9 Magnesia Talc lied, her mother was exposed to</p> <p>10 talc, we had sued them, we took less than what</p> <p>11 we should have because Eastern Magnesia Talc</p> <p>12 lied to us.</p> <p>13 Q Okay. And so my question is: Did Tom Bevan</p> <p>14 discuss with Marilyn Holley the underlying</p> <p>15 Engelhard case?</p> <p>16 MR. ROTH: Asked and</p> <p>17 answered.</p> <p>18 Q Did you discuss the underlying case with</p> <p>19 Ms. Holley during that initial conversation?</p> <p>20 A Well, first, I never would have called anything</p> <p>21 the Engelhard case.</p> <p>22 Q Withdrawn.</p> <p>23 Did you discuss with Ms. Holley the --</p> <p>24 her mother's litigation after your conversation</p> <p>25 with Mr. Placitella?</p>	<p style="text-align: right;">Page 176</p> <p>1 in common between the two that caused her</p> <p>2 mesothelioma. We figured out what that was and</p> <p>3 I think that answers your question.</p> <p>4 Q Did she have mesothelioma?</p> <p>5 A Yes.</p> <p>6 Q And what was her settlement for? How much?</p> <p>7 A With who?</p> <p>8 Q The talc companies.</p> <p>9 A I want to say I'm thinking 7,500, but I'm not</p> <p>10 certain on that. A little bit more, a</p> <p>11 little --</p> <p>12 Q Was it \$2,000?</p> <p>13 A Maybe it was 2,000. You know, it might have</p> <p>14 been 2,000. It was a low number.</p> <p>15 Q And she was -- she settled with a number of</p> <p>16 asbestos manufacturers, correct?</p> <p>17 A Yes.</p> <p>18 Q In fact, I think you said she was exposed to</p> <p>19 raw asbestos in her job. --</p> <p>20 A Yes.</p> <p>21 Q -- correct?</p> <p>22 A Yes, chrysotile.</p> <p>23 Q You, though, in that case stipulated that there</p> <p>24 was no brand name, manufacturer, distributor</p> <p>25 evidence that she could supply, correct?</p>
<p style="text-align: right;">Page 175</p> <p>1 A Yes.</p> <p>2 Q No doubt in your mind on that?</p> <p>3 A Yeah.</p> <p>4 Q Okay. So let's do Exhibit 5.</p> <p>5 I'm going to show you what's been marked</p> <p>6 as Defendants' Exhibit 5. It's Darnell versus</p> <p>7 BFGoodrich.</p> <p>8 Now, in terms of this case, did you</p> <p>9 handle every aspect of this case?</p> <p>10 A Yes.</p> <p>11 Q And what was your view of the product ID</p> <p>12 defenses in this case?</p> <p>13 A Well, that's a pretty broad question.</p> <p>14 Mrs. Darnell worked at Goodrich, I want to say</p> <p>15 from 1969 to mid to later 1980s. She worked in</p> <p>16 the banbury area, she was around the curing</p> <p>17 areas. She had some significant exposures.</p> <p>18 She testified, I'm certain, about a heavy talc</p> <p>19 or soapstone exposure. She also had exposure</p> <p>20 to tire curing presses, insulation products,</p> <p>21 raw asbestos fiber.</p> <p>22 Those were, I think -- one of the</p> <p>23 defenses. You asked about defenses. One of</p> <p>24 the defenses was that her brother died of</p> <p>25 mesothelioma, so there must have been something</p>	<p style="text-align: right;">Page 177</p> <p>1 A For?</p> <p>2 Q For any soapstone or soapstone-related</p> <p>3 products.</p> <p>4 A I stipulated to it?</p> <p>5 Q Did you?</p> <p>6 A I don't recall stipulating to it. She was --</p> <p>7 she was at Goodrich during the time that</p> <p>8 Eastern Magnesia Talc I believe was the sole</p> <p>9 supplier and they supplied very large</p> <p>10 quantities during the time that she was there.</p> <p>11 And it was distributed through C.P. Hall</p> <p>12 Company, which was the entity that she and her</p> <p>13 brother had in common, because her brother</p> <p>14 worked for -- her brother who died of</p> <p>15 mesothelioma worked for C.P. Hall Company as</p> <p>16 well.</p> <p>17 Q Let me show you what's been marked as</p> <p>18 Defendants' Exhibit 14 and turn your attention</p> <p>19 to the bottom of page 226.</p> <p>20 Line 23. Mr. Bevan says, "Brent, we</p> <p>21 stipulated and we will stipulate again that she</p> <p>22 doesn't know the brand name, manufacturer,</p> <p>23 distributor or supplier of any insulation</p> <p>24 products as well as any soapstone products as</p> <p>25 well."</p>

<p style="text-align: right;">Page 178</p> <p>1 Do you see that?</p> <p>2 A Yeah.</p> <p>3 Q Does that refresh your recollection as to</p> <p>4 whether there's a stipulation that she couldn't</p> <p>5 make any product ID?</p> <p>6 A That's not what you asked me, but yes, that's</p> <p>7 what that says. But that's not what you asked</p> <p>8 me.</p> <p>9 If you want to go back and reask me that</p> <p>10 question, I'll answer it the same way.</p> <p>11 Q And did you -- she didn't -- she also, when you</p> <p>12 were litigating the case, didn't know what talc</p> <p>13 was, correct?</p> <p>14 A I actually called -- they usually called it</p> <p>15 soapstone. I mean, you know --</p> <p>16 Q I'm not asking what they usually called it,</p> <p>17 Mr. Bevan, I'm asking what her testimony was.</p> <p>18 MR. ROTH: I'm sorry. Did</p> <p>19 you finish your answer?</p> <p>20 A I did not finish my answer.</p> <p>21 My answer was my rubber worker clients</p> <p>22 referred to it as soapstone. It was called</p> <p>23 soapstone in the rubber industry.</p> <p>24 Q Exhibit 13. Could you turn to page 113, the</p> <p>25 bottom of it?</p>	<p style="text-align: right;">Page 180</p> <p>1 was going to provide a statement to a Court or</p> <p>2 to a trust, you would want to make sure that</p> <p>3 trust statement was accurate, correct, it</p> <p>4 wasn't inconsistent with what she said in her</p> <p>5 deposition? Or would that be okay?</p> <p>6 MR. ROTH: Object to the</p> <p>7 form.</p> <p>8 A I don't know what you're --</p> <p>9 MR. McDERMOTT: Same objection.</p> <p>10 A -- referring to, so I'm not --</p> <p>11 MR. McDERMOTT: Vague.</p> <p>12 Q I'm just asking you --</p> <p>13 A You have to give me a bit more specifics.</p> <p>14 Q You've had clients submit claim forms to</p> <p>15 asbestos trusts, correct?</p> <p>16 A Yes.</p> <p>17 Q As an officer of the court, do you do anything</p> <p>18 to make sure they're accurate?</p> <p>19 A I have staff that files those claim forms.</p> <p>20 Q And you wouldn't want your staff filing things</p> <p>21 that were inaccurate, correct?</p> <p>22 A No.</p> <p>23 Q And you certainly wouldn't want staff filing</p> <p>24 things that were inconsistent with sworn</p> <p>25 testimony of your clients, correct?</p>
<p style="text-align: right;">Page 179</p> <p>1 Question, "Do you draw a distinction,</p> <p>2 ma'am, between soapstone and talc?</p> <p>3 A, "And talcum?"</p> <p>4 Question, "Talc, do you know what talc</p> <p>5 is?"</p> <p>6 Answer, "No."</p> <p>7 "Okay."</p> <p>8 "You're talking about talcum?"</p> <p>9 "I'm talking about a material that is</p> <p>10 used in some industries that is referred to as</p> <p>11 talc."</p> <p>12 Answer, "I've never heard of it."</p> <p>13 Do you see that?</p> <p>14 A Yes.</p> <p>15 Q Were you at that deposition?</p> <p>16 A I think I was at all of her depositions, so I</p> <p>17 believe I was.</p> <p>18 Yes.</p> <p>19 Q And even when you weren't at your client's</p> <p>20 deposition, as part of knowing every aspect of</p> <p>21 their case, would you review those depositions?</p> <p>22 A I don't know that I'd review every deposition,</p> <p>23 but, you know, I was at most of those</p> <p>24 depositions, most of my class depositions.</p> <p>25 Q Well, if your client had been deposed and then</p>	<p style="text-align: right;">Page 181</p> <p>1 MR. ROTH: Objection to</p> <p>2 form and foundation.</p> <p>3 A It depends on the circumstance.</p> <p>4 Q What would be one of the circumstances where it</p> <p>5 would be okay to have inconsistent sworn</p> <p>6 testimony in a submission to a trust?</p> <p>7 A Well, for instance, if a client doesn't recall</p> <p>8 a product in his or her deposition but a</p> <p>9 coworker could recall a product or the product</p> <p>10 was there, then that client may file a claim</p> <p>11 against that trust, even though that client in</p> <p>12 the deposition did not recall that product.</p> <p>13 Q Do you know how many cases you settled on</p> <p>14 behalf of Holley or Damell?</p> <p>15 A I don't. I would estimate 30 to 40. When you</p> <p>16 say "cases," I'm referring to different</p> <p>17 settlements. I would estimate 30 to 40</p> <p>18 different settlements. Maybe more but ...</p> <p>19 Q Do you know how many defendants or trusts have</p> <p>20 provided money to Holley/Damell?</p> <p>21 A I would -- and again I'm estimating, 30 to 40,</p> <p>22 but that's a pretty rough estimate.</p> <p>23 Q Does 98 sound right?</p> <p>24 A 98 sounds awfully high. I would be surprised</p> <p>25 if it was 98, but I can count them up. I'm</p>

<p style="text-align: right;">Page 182</p> <p>1 sure I could come up with a list the files with</p> <p>2 the files, but 98, I would be --</p> <p>3 Q When's the last time you --</p> <p>4 A -- surprised.</p> <p>5 Q Sorry.</p> <p>6 When's the last time you reviewed the</p> <p>7 Holley/Damell file?</p> <p>8 A You know, beginning to end, I've never reviewed</p> <p>9 the whole file. I mean, I was creating it as</p> <p>10 we were working on the case and, you know,</p> <p>11 whatever we have saved that we produced, I</p> <p>12 don't think I went through and reviewed the</p> <p>13 whole file. I think we, you know, produced the</p> <p>14 file.</p> <p>15 Q You said that you're familiar with I think</p> <p>16 every aspect of your clients' cases?</p> <p>17 A You know, I don't know that that's what I said,</p> <p>18 but I've been involved in every aspect of their</p> <p>19 cases.</p> <p>20 Q And when we talked about some strengths and</p> <p>21 weaknesses of various cases, do you think</p> <p>22 you're able to discuss what the strengths and</p> <p>23 weaknesses of various clients are?</p> <p>24 A I've got a pretty good idea of what the</p> <p>25 strengths and weaknesses of the cases were.</p>	<p style="text-align: right;">Page 184</p> <p>1 thing as a mild mesothelioma case. So those</p> <p>2 typically have the highest value.</p> <p>3 Followed by -- secondly by lung cancers</p> <p>4 that have less value, because there are other</p> <p>5 causes that the defendants could point to of</p> <p>6 lung cancer cases that they can't point to on</p> <p>7 mesothelioma cases.</p> <p>8 And then asbestosis cases. Again, I</p> <p>9 think it depends on the severity of the</p> <p>10 asbestosis case. There could be a really</p> <p>11 severe asbestosis case and there could be a</p> <p>12 mild asbestosis case.</p> <p>13 Q What are the other causes of lung cancer?</p> <p>14 A Cigarette smoking. That's the one that jumps</p> <p>15 out first and foremost. I'm sure there's</p> <p>16 others, but that's what I had to deal with</p> <p>17 usually is cigarette smoking.</p> <p>18 Q In terms of interviewing your clients who are</p> <p>19 going to bring cases against talc</p> <p>20 manufacturers, did you ask them about their</p> <p>21 smoking?</p> <p>22 A I believe on the intake when we take in a</p> <p>23 client we ask them about their smoking history.</p> <p>24 Q And that's because, especially for lung cancer</p> <p>25 cases, there could be alternative causation</p>
<p style="text-align: right;">Page 183</p> <p>1 Q In terms of reading films, do you think that</p> <p>2 there are some films that give stronger cases</p> <p>3 or weaker cases?</p> <p>4 MR. McDERMOTT: Objection. No</p> <p>5 foundation.</p> <p>6 A You would have to be a bit more specific,</p> <p>7 because I guess it would depend on the case.</p> <p>8 Q Okay. Have you brought asbestosis claims</p> <p>9 against talc manufacturers?</p> <p>10 A Yes.</p> <p>11 Q And lung cancer cases?</p> <p>12 A Yes.</p> <p>13 Q And mesothelioma cases?</p> <p>14 A Yes.</p> <p>15 Q Do you think that there's a difference in value</p> <p>16 in those cases?</p> <p>17 A Typically, yes.</p> <p>18 Q Why?</p> <p>19 A Because mesothelioma is a signature asbestos</p> <p>20 disease, that the only known cause in this</p> <p>21 country is exposure to asbestos. So there's</p> <p>22 not as many defenses. It's also an</p> <p>23 extremely -- extremely progressive. Those are</p> <p>24 cases where the people are dead, have</p> <p>25 tremendous pain and suffering. There's no such</p>	<p style="text-align: right;">Page 185</p> <p>1 with smoking, correct?</p> <p>2 A Yeah. Yeah, it confounds things. Now, the two</p> <p>3 of them, the asbestos and cigarette smoking</p> <p>4 acts synergistically, so the two combined</p> <p>5 greatly increase the risk much more than any</p> <p>6 one individual exposure would cause. But it's</p> <p>7 a factor. It's a factor we have to deal with</p> <p>8 in these cases.</p> <p>9 Q And a nonsmoker has -- all things being equal,</p> <p>10 a nonsmoker has a stronger case than a person</p> <p>11 who smoked a pack a day for 30 years, in terms</p> <p>12 of a lung cancer injury against an asbestos</p> <p>13 manufacturer?</p> <p>14 MR. ROTH: Objection to</p> <p>15 form.</p> <p>16 A Yes.</p> <p>17 Q Correct?</p> <p>18 A Yes.</p> <p>19 Q And you weigh that as a lawyer, correct, in</p> <p>20 terms of assessing settlements and payouts?</p> <p>21 A That is a factor that we would consider.</p> <p>22 Q What are the other factors that you would</p> <p>23 consider, in terms of assessing the strengths</p> <p>24 and weakness of a case against a talc</p> <p>25 manufacturer?</p>

<p style="text-align: right;">Page 186</p> <p>1 A Well, the most important factor would be</p> <p>2 product ID. You know, can I -- is that</p> <p>3 defendant's product in my client's worksite and</p> <p>4 was my client likely to be exposed to that</p> <p>5 defendant's product in his or her worksite.</p> <p>6 That's number one.</p> <p>7 Q Can we skew that as two? Product ID, whether</p> <p>8 it's sold to the facility, and then exposure,</p> <p>9 whether the person worked in an area where they</p> <p>10 would have been exposed to it?</p> <p>11 A That's fair.</p> <p>12 Q Fair enough?</p> <p>13 A That's fair.</p> <p>14 Q Okay. So we have product ID, we have exposure.</p> <p>15 We have whether there's asbestos in the</p> <p>16 product, correct?</p> <p>17 A That's extremely important. Maybe that's</p> <p>18 number one. Actually, that's probably number</p> <p>19 one, as far as exposure.</p> <p>20 Q And do you believe that there's gradations in</p> <p>21 terms of value in the case? Again I'm putting</p> <p>22 on your lawyer's hat advising your client and</p> <p>23 thinking about settlement and resolutions.</p> <p>24 If there's a talc manufacturer with 3</p> <p>25 percent asbestos, do you think that's a</p>	<p style="text-align: right;">Page 188</p> <p>1 than exposure over a month?</p> <p>2 MR. McDERMOTT: Objection.</p> <p>3 MR. ROTH: Objection to</p> <p>4 foundation.</p> <p>5 MR. McDERMOTT: Foundation.</p> <p>6 A Well, again, if all things are equal, then yes,</p> <p>7 30 years is more exposure than 30 days.</p> <p>8 MR. McDERMOTT: Are we talking</p> <p>9 about specific diseases? That's what I'm just</p> <p>10 kind of missing here. Mesothelioma versus lung</p> <p>11 cancer.</p> <p>12 MR. ASSAF: Please don't --</p> <p>13 MR. McDERMOTT: No. No. I'm</p> <p>14 asking so I can clarify my objection.</p> <p>15 MR. ASSAF: No. No.</p> <p>16 MR. McDERMOTT: That's why I</p> <p>17 want to know.</p> <p>18 MR. ASSAF: Don't interrupt</p> <p>19 the questioning.</p> <p>20 MR. McDERMOTT: I am going to</p> <p>21 interrupt. I don't --</p> <p>22 MR. ASSAF: No.</p> <p>23 MR. McDERMOTT: Understand</p> <p>24 it --</p> <p>25 MR. ASSAF: No.</p>
<p style="text-align: right;">Page 187</p> <p>1 stronger case for you than a talc manufacturer</p> <p>2 with trace amounts of asbestos in sporadic</p> <p>3 testing?</p> <p>4 MR. ROTH: Objection to</p> <p>5 form.</p> <p>6 A If everything -- if all things are equal. You</p> <p>7 know, so if he's exposed to both of those</p> <p>8 products the exact same amount and in an exact</p> <p>9 same manner, then obviously the higher</p> <p>10 percentage creates a greater risk of exposure,</p> <p>11 if all things are equal.</p> <p>12 Q Would it be fair to say higher amounts of</p> <p>13 asbestos make a stronger case?</p> <p>14 MR. ROTH: Objection.</p> <p>15 MR. McDERMOTT: Objection.</p> <p>16 MR. ROTH: Form and</p> <p>17 foundation.</p> <p>18 MR. McDERMOTT: Form and</p> <p>19 foundation.</p> <p>20 A Again if all other things are equal.</p> <p>21 Q And in terms of assessing the strengths and</p> <p>22 weaknesses of plaintiffs, all things being</p> <p>23 equal, in terms of factoring a case, would you</p> <p>24 agree with me that exposure over 30 years to an</p> <p>25 asbestos containing talc makes a stronger case</p>	<p style="text-align: right;">Page 189</p> <p>1 MR. McDERMOTT: -- so I don't</p> <p>2 know how my client can, all right?</p> <p>3 Q You can leave.</p> <p>4 MR. McDERMOTT: Don't tell me</p> <p>5 what or what not to do, please.</p> <p>6 Q Witness, can you be excused? Please step out.</p> <p>7 MR. ROTH: Watch your</p> <p>8 microphone.</p> <p>9 -----</p> <p>10 (Mr. Bevan no longer present.)</p> <p>11 -----</p> <p>12 MR. McDERMOTT: I'm trying to</p> <p>13 have you --</p> <p>14 MR. ASSAF: No.</p> <p>15 MR. McDERMOTT: -- clarify your</p> <p>16 question.</p> <p>17 MR. ASSAF: It's form or</p> <p>18 foundation.</p> <p>19 MR. McDERMOTT: All right.</p> <p>20 MR. ASSAF: It's not</p> <p>21 interrupting trying --</p> <p>22 MR. McDERMOTT: No.</p> <p>23 MR. ASSAF: -- to suggest</p> <p>24 answers to the witness.</p> <p>25 MR. McDERMOTT: It's not a</p>

<p style="text-align: right;">Page 190</p> <p>1 suggestion.</p> <p>2 MR. ASSAF: No.</p> <p>3 MR. McDERMOTT: You ask such</p> <p>4 vague questions.</p> <p>5 MR. ASSAF: You have form</p> <p>6 or foundation.</p> <p>7 MR. McDERMOTT: All right.</p> <p>8 MR. ASSAF: Let's get the</p> <p>9 judge on again. We have form and foundation.</p> <p>10 That's it. You want --</p> <p>11 MR. ROTH: Okay. Well,</p> <p>12 now we're off the record, why don't --</p> <p>13 MR. ASSAF: No, let's go on</p> <p>14 the record.</p> <p>15 MR. ROTH: We're now out</p> <p>16 of the hearing of the witness.</p> <p>17 Mr. McDermott, can you explain to</p> <p>18 Mr. Assaf what your issue is, and maybe --</p> <p>19 MR. McDERMOTT: My issue</p> <p>20 is that --</p> <p>21 MR. ROTH: -- you can</p> <p>22 clarify the question.</p> <p>23 MR. McDERMOTT: My issue is</p> <p>24 this, is that it depends upon the disease to</p> <p>25 answer that question. Your question wasn't</p>	<p style="text-align: right;">Page 192</p> <p>1 MR. ASSAF: All right.</p> <p>2 -----</p> <p>3 (Mr. Bevan now present.)</p> <p>4 -----</p> <p>5 BY MR. ASSAF:</p> <p>6 Q By the way, Mr. Bevan, did you discuss your</p> <p>7 testimony during the prior breaks?</p> <p>8 A No.</p> <p>9 Q In terms of --</p> <p>10 MR. ROTH: There was only</p> <p>11 one break.</p> <p>12 Q In terms of -- yeah, the prior break.</p> <p>13 In terms of your settlement of asbestos</p> <p>14 talc cases, how long have you been doing that?</p> <p>15 A I think the first time I did a settlement with</p> <p>16 any talc defendant was in 1997 and I think the</p> <p>17 last time was probably in I want to say 2011</p> <p>18 maybe.</p> <p>19 Q Could you tell me roughly how many talc cases</p> <p>20 you've settled? Round numbers.</p> <p>21 MR. ROTH: Objection to</p> <p>22 form. Form and foundation.</p> <p>23 A Boy, I'm not sure. 1 to 2,000.</p> <p>24 Q And could you tell me how many -- on behalf of</p> <p>25 how many plaintiffs you've settled asbestos</p>
<p style="text-align: right;">Page 191</p> <p>1 clear. For me to interpose a correct</p> <p>2 objection, just tell me what disease you're</p> <p>3 talking about, that's all. That's all I --</p> <p>4 MR. ASSAF: Then make a</p> <p>5 form or foundation objection.</p> <p>6 MR. McDERMOTT: But you can't</p> <p>7 clear it up by form and foundation --</p> <p>8 MR. ASSAF: You're not</p> <p>9 litigating the case --</p> <p>10 MR. McDERMOTT: -- Mr. Assaf,</p> <p>11 because you've been asking vague and</p> <p>12 hypothetical questions all day.</p> <p>13 MR. ASSAF: It's not. He's</p> <p>14 one of the most experienced plaintiffs asbestos</p> <p>15 lawyers in the country. I think he understands</p> <p>16 my question.</p> <p>17 MR. McDERMOTT: I think I take</p> <p>18 issue with that.</p> <p>19 MR. ASSAF: All right.</p> <p>20 Let's bring him back in. Form or -- well,</p> <p>21 let's not.</p> <p>22 Anything except form or foundation, let's</p> <p>23 get the judge on the line.</p> <p>24 MR. McDERMOTT: Just continue</p> <p>25 the deposition.</p>	<p style="text-align: right;">Page 193</p> <p>1 cases apart from talc?</p> <p>2 A How many individual plaintiffs I have settled</p> <p>3 asbestos cases for. Probably I'm going to</p> <p>4 estimate 20 to 30,000.</p> <p>5 Q All right. Do you think you have a good</p> <p>6 understanding of strengths and weaknesses of</p> <p>7 matters when you're recommending settlements to</p> <p>8 your clients?</p> <p>9 A When I have all of the evidence.</p> <p>10 Q Let's take a break. Lunch.</p> <p>11 THE VIDEOGRAPHER: Off the record.</p> <p>12 The time is 12:49.</p> <p>13 -----</p> <p>14 (Recess taken.)</p> <p>15 -----</p> <p>16 THE VIDEOGRAPHER: We're back on</p> <p>17 the record. The time is 1:29.</p> <p>18 BY MR. ASSAF:</p> <p>19 Q Do you think that BASF spoliated documents?</p> <p>20 A My understanding is that they did.</p> <p>21 Q What's your understanding from?</p> <p>22 A My understanding is that Eastern Magnesia</p> <p>23 tested their talc in the 1970s, found that it</p> <p>24 contained asbestos, and destroyed any documents</p> <p>25 related to that.</p>

<p style="text-align: right;">Page 194</p> <p>1 Q What's your understanding from? What source?</p> <p>2 A From what I've heard from Mr. Placitella and</p> <p>3 what I've read in the complaint. I'm not sure</p> <p>4 if I've seen any documents to that extent, but</p> <p>5 that's what I've been told.</p> <p>6 Q Did Mr. Placitella talk to you about any state</p> <p>7 court proceedings regarding spoliation or</p> <p>8 crime-fraud?</p> <p>9 MR. ROTH: Objection.</p> <p>10 Form.</p> <p>11 Hold on for a second.</p> <p>12 That's a yes or no.</p> <p>13 A I don't recall what's in state court, what's in</p> <p>14 federal court.</p> <p>15 Q Did he tell you about any spoliation or</p> <p>16 crime-fraud hearings, period?</p> <p>17 A I assume there was one in this case, because I</p> <p>18 thought that was one of the issues that was up</p> <p>19 at the circuit court, but I don't recall.</p> <p>20 Q Has he talked to you about any -- withdrawn.</p> <p>21 Regarding the spoliation allegations,</p> <p>22 what do you understand the facts alleged are?</p> <p>23 A My understanding of the facts was what I just</p> <p>24 said and that sometime in the 1980s, they</p> <p>25 gathered up the documents and destroyed them.</p>	<p style="text-align: right;">Page 196</p> <p>1 better position to do that than I would.</p> <p>2 Q Well, you know the facts better than he does,</p> <p>3 in terms of the underlying cases, true?</p> <p>4 A Yes.</p> <p>5 Q And you're barred in Ohio? You're a member of</p> <p>6 the Bar?</p> <p>7 A Yeah, I'm a member of the Bar in Ohio.</p> <p>8 Q And you can associate with Mr. Placitella to</p> <p>9 bring a case here, correct?</p> <p>10 A Yeah. Yeah. Yeah, sure.</p> <p>11 Q Is there any impediment to doing so?</p> <p>12 A I don't know. I haven't researched it to</p> <p>13 determine if there's any impediment, but we</p> <p>14 chose to pursue it the way it's being pursued.</p> <p>15 Q Do you view yourself as kind of co-counsel in</p> <p>16 Williams?</p> <p>17 A If -- I guess it depends if -- for instance,</p> <p>18 take the Damell case and if the Damell case,</p> <p>19 if we're set back to square one and Damell's</p> <p>20 able to pursue the -- her claim against Eastern</p> <p>21 Magnesia Talc with all of the relevant</p> <p>22 evidence, than I would assume that I would be</p> <p>23 co-counsel because I know a tremendous amount</p> <p>24 of the Damell case.</p> <p>25 I wouldn't be able to do it by myself, I</p>
<p style="text-align: right;">Page 195</p> <p>1 Q And when did Mr. Placitella convey that to you</p> <p>2 in words or in substance?</p> <p>3 MR. ROTH: Objection to</p> <p>4 form and foundation.</p> <p>5 A It would have been 2010 or '11. I believe it</p> <p>6 was in the complaint as well.</p> <p>7 Q Other than that, have you had any conversations</p> <p>8 with Mr. Placitella regarding spoliation</p> <p>9 allegation?</p> <p>10 MR. McDERMOTT: Objection.</p> <p>11 A No.</p> <p>12 Q Have you initiated any efforts in Ohio to</p> <p>13 reopen any cases?</p> <p>14 A No.</p> <p>15 Q Why not?</p> <p>16 A Because that's being handled by the Placitella</p> <p>17 firm as part of the class action.</p> <p>18 Q Could you? Withdrawn.</p> <p>19 Do you have the capability and experience</p> <p>20 and resources to try to reopen individual cases</p> <p>21 here?</p> <p>22 A I certainly have the resources. You know, as</p> <p>23 far as the ability and experience, I think</p> <p>24 Mr. Placitella knows things that I don't know,</p> <p>25 and so I would think that he would be in a</p>	<p style="text-align: right;">Page 197</p> <p>1 would need the assistance of the Placitella</p> <p>2 firm because they know more about BASF and what</p> <p>3 BASF knew, when they knew it, what they did</p> <p>4 with the evidence, those things.</p> <p>5 Q Do you view yourself as having a co-counsel</p> <p>6 relationship with Mr. Placitella?</p> <p>7 A Certainly in the Ross case and certainly --</p> <p>8 yeah, if we get to that point that I described,</p> <p>9 then yes.</p> <p>10 Q At trial, would you be co-counsel?</p> <p>11 MR. ROTH: Trial of what</p> <p>12 case?</p> <p>13 A It depends on what issue's being tried.</p> <p>14 Q The Williams case.</p> <p>15 A It depends on what issue's being tried in the</p> <p>16 Williams case.</p> <p>17 Q Well, what issue can you imagine you would be</p> <p>18 co-counsel?</p> <p>19 MR. ROTH: Objection to</p> <p>20 form and foundation.</p> <p>21 A If, again, the Williams case was set back to</p> <p>22 square one and we were permitted to try our</p> <p>23 case, I'm familiar with the medical and the</p> <p>24 facts of the case. I would assume that I would</p> <p>25 have a role in that as co-counsel.</p>

<p style="text-align: right;">Page 198</p> <p>1 Q So yes, if the Williams case is either 2 certified or not certified, you would handle 3 whatever has to do with Ms. Damell? 4 A Again, it depends on what the issue is whether 5 I'm going to be handling it or not. 6 Q Is that spelled out in the fee agreement? 7 MR. McDERMOTT: Objection. 8 A I don't -- I don't recall. 9 MR. ROTH: Wait. Wait. 10 I'm sorry. 11 Okay. Yeah. Objection. Privilege. 12 Q Why else -- withdrawn. 13 Where's the list of -- I'm sorry. I know 14 you gave me this list, Mr. Bevan, of which 15 clients you talked to and which ones you 16 didn't, so let me just try to find this. I 17 think I have it. 18 Okay. So Holley, Pease, and Ware. 19 Holley, Pease, and Ware. 20 So in terms of Kimberlee Williams, we're 21 going to get to her in a second, but I want to 22 turn your attention to D Ex 1. 23 Kimberlee Williams was one of the people 24 that you said you didn't talk to -- 25 A I have not --</p>	<p style="text-align: right;">Page 200</p> <p>1 A That's -- my paralegal contacted her. She's 2 the one who talked to her. I have not talked 3 to Ms. Williams. 4 Q Well, it doesn't say your paralegal, it says 5 Tom Bevan. 6 A Yeah. 7 Q So that's not correct? 8 MR. ROTH: Does it say -- 9 I'm sorry. Does it say Tom Bevan? Because I 10 missed that part. 11 MR. ASSAF: Okay. "When 12 she was informed of same by her attorney, 13 Thomas W. Bevan." Hold on. We'll pause here. 14 MR. ROTH: Thank you. 15 MR. ASSAF: We'll go over 16 it again. 17 MR. ROTH: You don't have 18 to go over it again, let me just catch up. 19 Q "of such fact until late 2010/early 2011, when 20 she was first -- 21 MR. ROTH: Ah, thank you. 22 Q -- informed of same by her attorney, Thomas 23 Bevan, Esquire." 24 Is that you? 25 A I'm Thomas W. Bevan, Esquire, yes.</p>
<p style="text-align: right;">Page 199</p> <p>1 Q -- correct? 2 A I don't recall when I last talked to Kimberlee 3 Williams, but it's been quite some time. 4 Q And you certainly -- again, we went through 5 that initial phone conversation with 6 Mr. Placitella where you called three of the 7 plaintiffs, but you didn't called Wengerd and 8 you didn't call Kimberlee Williams? 9 A I -- 10 MR. ROTH: Objection. 11 A Whether I called them or not, I don't recall 12 talking to them. 13 Q Right. Okay. 14 Could you turn to paragraph 19 on page 15 21? It begins at the bottom of page 20. 16 "Plaintiff Williams and her husband did 17 not know that she and her husband have been the 18 victim of Defendants' Fraudulent Asbestos 19 Defense Scheme described herein while her 20 husband was alive, and she did not learn of 21 such fact until late 2010/early 2011, when she 22 was first informed of same by her attorney." 23 Do you see that? 24 A Yes. 25 Q Is that true?</p>	<p style="text-align: right;">Page 201</p> <p>1 Q Okay. Who's your legal assistant that you 2 think -- 3 A Erin Clark would have contacted Mrs. Williams. 4 Q Okay. But Erin Clark's not in the complaint. 5 A She contacted her on behalf of me. 6 Q And she actually wasn't even in the plaintiffs' 7 initial disclosures, did you know that? 8 A I don't know what you're talking about. 9 MR. ROTH: Object to form, 10 foundation. 11 Q Well, you know what an initial disclosure is? 12 A I do not. 13 Q You don't know what a Rule 26 initial 14 disclosure is, Mr. Bevan? 15 A No. Is that federal court? 16 Q Yeah. 17 A Yeah, I have not practiced in federal court. 18 Q So that's wrong, as far as you know? 19 A No. 20 MR. ROTH: Objection. 21 Form and foundation. 22 A Erin Clark contacted her on behalf of me. 23 Q It's correct if it means on behalf of Tom Bevan 24 and that's how it would be correct? 25 A It would be if it says on behalf -- by some --</p>

<p style="text-align: right;">Page 202</p> <p>1 on behalf. It would be more specific I guess</p> <p>2 is what I'm saying.</p> <p>3 Q And what did you tell Ms. Clark?</p> <p>4 A To contact Mrs. Williams and get her in touch</p> <p>5 with the folks at the Placitella firm.</p> <p>6 Q Well, you told her more than that, didn't you?</p> <p>7 A Well, I told her what --</p> <p>8 MR. ROTH: Objection to</p> <p>9 form and foundation.</p> <p>10 A -- you know, what was going on, why.</p> <p>11 Q What did you tell her exactly?</p> <p>12 A I told her that we were going to look into</p> <p>13 pursuing a fraud case against Eastern Magnesita</p> <p>14 Talc because they lied to Mrs. Williams or</p> <p>15 Mr. Williams at the time that the case was</p> <p>16 being litigated when they said that they had</p> <p>17 tested their talc and never found any evidence</p> <p>18 of asbestos in their talc. That has now been</p> <p>19 proven to be a lie, and so we were going to</p> <p>20 look into a potential fraud against BASF, to</p> <p>21 contact Mrs. Williams and get her in touch with</p> <p>22 the Placitella firm.</p> <p>23 Q An do you know if she did that?</p> <p>24 A Oh, yeah, she did.</p> <p>25 Q Did she tell you she did that?</p>	<p style="text-align: right;">Page 204</p> <p>1 little detour.</p> <p>2 MR. ROTH: I don't think</p> <p>3 you are.</p> <p>4 Q But keep D Ex 1 out.</p> <p>5 Ms. Ware. So did you know Ralph Ware?</p> <p>6 A I've spoken with Ralph Ware, yes.</p> <p>7 Q Have you ever spoken with Donna Ware?</p> <p>8 A Yes.</p> <p>9 Q Honest? Is she honest?</p> <p>10 A I had no reason to believe that she wouldn't be</p> <p>11 honest.</p> <p>12 Q I'm going to show you what's been marked as</p> <p>13 Defendants' Exhibit 46 -- 146.</p> <p>14 MR. ROTH: I'm sorry?</p> <p>15 MR. ASSAF: Defendants'</p> <p>16 Exhibit 146.</p> <p>17 MR. ROTH: Thank you.</p> <p>18 Q This is a complaint on or about August 5, 2002.</p> <p>19 Do you recognize this?</p> <p>20 A Whether I specifically recognize this, I don't</p> <p>21 recall, but it looks similar to the complaints</p> <p>22 that we've filed.</p> <p>23 Q Can you turn to page 35?</p> <p>24 Tell me if that's your signature.</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 203</p> <p>1 A Yes.</p> <p>2 Q Did she take notes of that conversation, or you</p> <p>3 don't know?</p> <p>4 A I don't know. I doubt it.</p> <p>5 Q Why do you doubt it?</p> <p>6 A Why would she take notes?</p> <p>7 Q Did you check?</p> <p>8 A I do not believe she took notes.</p> <p>9 Q What's your factual basis for not believing she</p> <p>10 didn't take notes?</p> <p>11 A She had no reason to take notes and I guess she</p> <p>12 would have told me if she took notes. I can</p> <p>13 find out and tell you tomorrow whether she took</p> <p>14 notes or not.</p> <p>15 Q Did you check her files?</p> <p>16 A She doesn't have any files.</p> <p>17 Q Does she keep a notebook?</p> <p>18 A I've never seen her with a notebook.</p> <p>19 Q Did she email you and tell you that she had</p> <p>20 talked to Mrs. Williams?</p> <p>21 MR. ROTH: Objection to</p> <p>22 form, foundation.</p> <p>23 A I highly doubt it. Her office is about 10 feet</p> <p>24 from mine.</p> <p>25 Q So we are starting with Ware. Sorry for that</p>	<p style="text-align: right;">Page 205</p> <p>1 Q And you sued Engelhard here?</p> <p>2 A Yes.</p> <p>3 Q And this was in -- this was I guess eight years</p> <p>4 after you first believed that there was no</p> <p>5 asbestos in Engelhard's talc?</p> <p>6 A Eight years before I was first told that.</p> <p>7 Q Eight years after?</p> <p>8 A Eight years after I was first told that, yes.</p> <p>9 Q And even though you say you believed --</p> <p>10 A Well, hold on, let me --</p> <p>11 Q Sorry.</p> <p>12 A -- just find the date.</p> <p>13 Yeah, I would say roughly eight years.</p> <p>14 It could have been more. I'd say roughly eight</p> <p>15 years.</p> <p>16 Q And you brought this lawsuit against Ermtal even</p> <p>17 though you say you believed Cahill when they</p> <p>18 told you there was no asbestos in the talc?</p> <p>19 A Yes.</p> <p>20 Q What's Harshaw?</p> <p>21 A Harshaw was a local distributor, supplier.</p> <p>22 No I'm sorry. Did you say Harshaw?</p> <p>23 Q Yeah.</p> <p>24 A Oh. Harshaw was a chemical company that at</p> <p>25 some point in time merged with Engelhard.</p>

<p style="text-align: right;">Page 206</p> <p>1 Q Have you brought cases against Harshaw?</p> <p>2 A I have brought premises cases against Harshaw.</p> <p>3 Q Would you explain to me what a premises case</p> <p>4 is?</p> <p>5 A It's a lawsuit against the owner of a premises,</p> <p>6 where one of my clients may have been exposed</p> <p>7 to asbestos at the Harshaw plant but did not</p> <p>8 work for Harshaw. And so they filed a premises</p> <p>9 liability lawsuit against the premises owner.</p> <p>10 Q And, again, based on your 30 years of</p> <p>11 experience, are premises cases valued higher or</p> <p>12 lower than the direct exposure worker cases?</p> <p>13 MR. ROTH: Objection to</p> <p>14 form and foundation.</p> <p>15 A Oh, yeah, that's not a question I can answer</p> <p>16 because --</p> <p>17 Q All right.</p> <p>18 A -- there's just too many variables.</p> <p>19 Q Are the Harshaw cases that you've been involved</p> <p>20 with talc cases?</p> <p>21 A No. If I -- if I sued Harshaw, that was</p> <p>22 because of a premises liability lawsuit not</p> <p>23 having to do with talc.</p> <p>24 Q What was the factual basis for you bringing a</p> <p>25 lawsuit against Harshaw on behalf of Ware?</p>	<p style="text-align: right;">Page 208</p> <p>1 A I do not recognize this. No, I do not</p> <p>2 recognize this document.</p> <p>3 Q Okay. Defendants' 156A.</p> <p>4 If you turn to the second page where it</p> <p>5 talks about -- where there's a mention -- or</p> <p>6 the third page.</p> <p>7 "Goodyear Aerospace/Aircraft," do you see</p> <p>8 that?</p> <p>9 A Yes.</p> <p>10 Q Are you familiar with this document?</p> <p>11 A Yes.</p> <p>12 Q Okay. Did you understand -- do you have any</p> <p>13 questions to -- any reasons to disbelieve this</p> <p>14 document?</p> <p>15 MR. ROTH: Objection to</p> <p>16 the form and foundation.</p> <p>17 Q Withdrawn. Let me try this way.</p> <p>18 Do you believe that this document is in</p> <p>19 any way fraudulent?</p> <p>20 A I have no knowledge that it's fraudulent. I</p> <p>21 haven't seen the records to back it up, but I</p> <p>22 have no knowledge that it's fraudulent.</p> <p>23 Q Did you have any product ID evidence suggesting</p> <p>24 that Goodyear Aerospace and Aircraft had more</p> <p>25 than three 50-pound bags in 30 years?</p>
<p style="text-align: right;">Page 207</p> <p>1 A This would have been a multi-plaintiff</p> <p>2 complaint. So presumably one of these people</p> <p>3 had exposure at a Harshaw plant and that's why</p> <p>4 Harshaw was named as a defendant.</p> <p>5 Typically what we did in those</p> <p>6 situations, as the case began to go through</p> <p>7 litigation, then we would dismiss out the</p> <p>8 defendants that didn't belong in that</p> <p>9 individual case. So as far as I know, we</p> <p>10 weren't pursuing a case against Harshaw for</p> <p>11 Mr. Ware.</p> <p>12 Q Okay. Let me show you Defendants' 156 and 157.</p> <p>13 Let me show you Defendants' 156A and 157.</p> <p>14 So on 157 --</p> <p>15 MR. ASSAF: You must have</p> <p>16 an extra copy of 157 floating over there.</p> <p>17 Thank you.</p> <p>18 Q 157. Do you recognize this, Mr. Ware? I think</p> <p>19 it's entitled "Defendants' Supplemental Answers</p> <p>20 to Plaintiffs'."</p> <p>21 MR. ROTH: Mr. Bevan.</p> <p>22 Q I'm sorry. Withdrawn.</p> <p>23 Mr. Bevan, do you recognize Defendants'</p> <p>24 157 entitled "Defendants' Supplemental Answers</p> <p>25 to Plaintiffs' Master Discovery Requests"?</p>	<p style="text-align: right;">Page 209</p> <p>1 A Yeah. Most of the -- for, again, the vinyl</p> <p>2 division, as I explained which was a Goodyear</p> <p>3 Tire division, the purchasing was done by</p> <p>4 central Goodyear Tire purchasing and so it</p> <p>5 would not show up, I don't believe, on this</p> <p>6 document, sales of -- or talc being used at</p> <p>7 Goodyear Aerospace.</p> <p>8 Q So if you -- based upon all of your experience</p> <p>9 and knowledge of these issues, if somebody had</p> <p>10 filed a product ID motion, if Emral had filed a</p> <p>11 product ID motion, you surely, in order to</p> <p>12 protect your clients' rights, would have put</p> <p>13 that in opposing papers, correct?</p> <p>14 MR. ROTH: Objection to</p> <p>15 form.</p> <p>16 A No, not necessarily. Depending on how we were</p> <p>17 handling the case.</p> <p>18 Q Well, what situation would it be where you were</p> <p>19 not -- where you were handling the cases and</p> <p>20 decided not to tell the Court about your</p> <p>21 product ID theory?</p> <p>22 A Well, in the case -- excuse me.</p> <p>23 In the case of Eastern Magnesia Talc, if</p> <p>24 we did not have evidence that it contained</p> <p>25 asbestos, then the product ID part was somewhat</p>

<p style="text-align: right;">Page 210</p> <p>1 moot</p> <p>2 And so if -- for instance, if Eastern</p> <p>3 Magnesia Talc would file a -- would have back</p> <p>4 in the day before I knew what I know now would</p> <p>5 have filed a motion for summary judgment on a</p> <p>6 Goodyear Aerospace case, it wouldn't have been</p> <p>7 a matter that we would have spent any time on,</p> <p>8 because even if we were able to prove that the</p> <p>9 raw materials for the vinyl division came from</p> <p>10 Goodyear over to Goodyear Aerospace, it still</p> <p>11 left us in the same position, which is we</p> <p>12 didn't have the evidence that Eastern Magnesia</p> <p>13 Talc contained asbestos.</p> <p>14 So in a situation, if it was a Goodyear</p> <p>15 Aerospace case, I don't think I would have, you</p> <p>16 know, tried to, you know, connect all of those</p> <p>17 dots, because I know I couldn't connect the</p> <p>18 final dot, the most important one, which is did</p> <p>19 their product contain asbestos.</p> <p>20 Q In fact, for Goodyear Aerospace, as long as</p> <p>21 you've been handling cases against Emtal, you</p> <p>22 never filed papers with this vinyl theory in</p> <p>23 them, did you, Mr. Bevan?</p> <p>24 A Actually, I tried a case against Goodyear Tire</p> <p>25 & Rubber Company under that theory, that</p>	<p style="text-align: right;">Page 212</p> <p>1 MR. ROTH: Objection to</p> <p>2 form.</p> <p>3 MR. McDERMOTT: Objection.</p> <p>4 Form.</p> <p>5 A I don't think -- I don't think we developed</p> <p>6 that until it was in probably '98 or '99. It</p> <p>7 was a time when I was starting to litigate a</p> <p>8 fair number of Goodyear Aerospace cases. I</p> <p>9 think we had between 100 and 200 Goodyear</p> <p>10 Aerospace cases that arose around 1999. And we</p> <p>11 were litigating those in the early 2000s,</p> <p>12 around 2000. When we started --</p> <p>13 Q Do you have any piece of paper showing Emtal</p> <p>14 being shipped from the vinyl facility to</p> <p>15 Goodyear Aerospace?</p> <p>16 A No.</p> <p>17 MR. McDERMOTT: Objection.</p> <p>18 Q But you have the thousands of cases that you've</p> <p>19 litigated. You can't show me a single piece of</p> <p>20 paper?</p> <p>21 MR. McDERMOTT: Objection.</p> <p>22 A My understanding, from what Goodyear's told me,</p> <p>23 they destroyed their records, so -- as part of</p> <p>24 their normal record keeping policy.</p> <p>25 Q Let me show you 151.</p>
<p style="text-align: right;">Page 211</p> <p>1 Goodyear Tire & Rubber Company was supplying</p> <p>2 the raw asbestos fiber through central</p> <p>3 purchasing, through this exact theory I'm</p> <p>4 talking about.</p> <p>5 Q Regarding Emtal, you never raised that in any</p> <p>6 Court papers on behalf of these thousands of</p> <p>7 plaintiffs, did you, Mr. Bevan?</p> <p>8 MR. ROTH: Objection.</p> <p>9 A I don't believe I did. Like I said, I did it</p> <p>10 on the raw asbestos side, but I wouldn't have</p> <p>11 done it on the Emtal because the evidence I had</p> <p>12 was that Emtal didn't have asbestos.</p> <p>13 Q And even in 1994 when you had cases against</p> <p>14 Goodyear -- involving Goodyear Aerospace, you</p> <p>15 didn't raise the vinyl theory regarding Emtal</p> <p>16 at that point, did you?</p> <p>17 A I'm trying to recall if I had any Goodyear</p> <p>18 Aerospace cases in 1994. I don't know if I had</p> <p>19 any back then. It's possible. I don't recall</p> <p>20 any.</p> <p>21 Q If you did have them, you would expect to --</p> <p>22 would you have -- withdrawn.</p> <p>23 If I could show you a case in 1994</p> <p>24 regarding Goodyear Aerospace, would you expect</p> <p>25 to see your vinyl theory there regarding Emtal?</p>	<p style="text-align: right;">Page 213</p> <p>1 Defendants' Exhibit 151 is a March 13,</p> <p>2 2003 letter to Jan Spellacy?</p> <p>3 A Yes.</p> <p>4 Q From Dr. Parmar?</p> <p>5 A Yes.</p> <p>6 Q There's a reference in paragraph 2 to a B</p> <p>7 reader report by Dr. Ray Harron dated May 16,</p> <p>8 2002 with a narrative.</p> <p>9 Do you see that?</p> <p>10 A Yes.</p> <p>11 Q Who's Dr. Harron?</p> <p>12 A He was a B reader from West Virginia.</p> <p>13 Q Honest and competent?</p> <p>14 A I found him to be quite honest and competent in</p> <p>15 my dealings with him. He saved some of my</p> <p>16 clients' lives.</p> <p>17 Q So you think that a Court could rely on his B</p> <p>18 reads?</p> <p>19 A Well, we don't use him anymore and he withdrew</p> <p>20 from the litigation. I'm not so sure he's</p> <p>21 alive anymore.</p> <p>22 Q As of 2003, did you believe that a Court should</p> <p>23 rely on the B reads of Mr. Harron?</p> <p>24 MR. McDERMOTT: Objection.</p> <p>25 A As of 2003, I think the Courts were relying</p>

<p style="text-align: right;">Page 214</p> <p>1 upon B reads of Dr. Harron. I believe. I 2 don't know when that -- I explained it earlier. 3 I don't know when that occurred, but I don't 4 believe it was as of 2003. It certainly wasn't 5 as of 2002, which is the date indicated by the 6 B read in there. 7 Q Could we agree that one of Mr. Ware's medical 8 reports supporting his diagnosis was a B reader 9 by Dr. Harron? 10 A No. Not for his mesothelioma. I think 11 Mr. Ware was originally an asbestosis client 12 and he developed mesothelioma. So not for 13 mesothelioma. 14 Q So Mr. Harron, as far as you can testify to, 15 had no involvement with Mr. Ware's talc claim? 16 A Well, again, other than what I just said. 17 MR. McDERMOTT: Objection. 18 Q Well, at this point in 2003, Mr. Ware had 19 mesothelioma? 20 A Yes. 21 Q Right. And this report is supporting that 22 diagnosis of mesothelioma, correct? 23 A Yes. 24 Q And these were the claims that you were 25 pursuing against talc claims -- talc</p>	<p style="text-align: right;">Page 216</p> <p>1 MR. McDERMOTT: Objection. 2 A I don't know. 3 Q Really? 4 A What's that strange look on your face for? 5 MR. McDERMOTT: Objection. 6 Q Based on representing tens of thousands of 7 people and being one of the most distinguished 8 plaintiffs lawyers in the country for asbestos 9 claims, you don't have any understanding of 10 what the claims were against Dr. Harron? 11 MR. ROTH: That wasn't -- 12 objection. 13 MR. McDERMOTT: Objection. 14 MR. ASSAF: I'm asking the 15 question. 16 A I don't think that's the question you asked me, 17 for starters. 18 Q I'm asking you now, though. 19 MR. McDERMOTT: Objection. 20 A Why don't you repeat your question? 21 Q Sure. 22 Based upon your experience in handling 23 asbestos claims, do you have any understanding 24 of what the allegations were against 25 Dr. Harron?</p>
<p style="text-align: right;">Page 215</p> <p>1 defendants, correct? 2 MR. McDERMOTT: Objection. 3 A Say that again. 4 Q You were supporting -- you were pursuing 5 mesothelioma claims against talc defendants, 6 correct? 7 A Yes. 8 Q Do you think that a claimant who's relying on 9 Dr. Harron has some weakness in their case 10 because of the fact that Dr. Harron's providing 11 the diagnosis? 12 MR. McDERMOTT: Objection. 13 MR. ROTH: Objection. 14 Foundation. 15 A No. 16 Q Your professional practice and the way you 17 conduct your practice is that you're perfectly 18 comfortable relying on reads by Dr. Harron? 19 MR. McDERMOTT: Objection. 20 MR. ROTH: Objection. 21 Foundation. 22 A I don't rely upon reads by Dr. Harron anymore 23 and haven't since approximately 2004. 24 Q Do you think the allegations against Dr. Harron 25 were well rounded?</p>	<p style="text-align: right;">Page 217</p> <p>1 A I explained earlier in the deposition what my 2 understanding was of the allegations. 3 Q And do you think that there was any factual 4 basis to those allegations? 5 MR. McDERMOTT: Objection. 6 A I have no idea. 7 Q Did you understand that Courts had in fact 8 found that Dr. Harron should not be relied on? 9 MR. McDERMOTT: Objection. 10 Q Let's put it this way -- withdrawn. 11 You know that bankruptcy trusts won't 12 rely on Dr. Harron's B reads, right? 13 A Correct. 14 MR. McDERMOTT: Objection. 15 Q Right? 16 So is that a factor, then, in terms of 17 your assessing the strength and weaknesses of a 18 possible claim, whether you're relying on 19 Dr. Harron's claim -- B reads? 20 MR. ROTH: Objection. 21 Foundation. 22 MR. McDERMOTT: Objection. 23 A You know, I don't -- I guess I'm not quite 24 understanding your question. I can tell you 25 that as of 2002 when Dr. Harron did a B read</p>

<p style="text-align: right;">Page 218</p> <p>1 for Mr. Ware, there was no Court that had an 2 issue with him, no bankruptcy trust that had an 3 issue with him. He had testified numerous 4 times, as far as I know. I think he had 5 testified in cases that we had filed and won. 6 And so there was not an issue. 7 Since 2004, we have not relied upon 8 Dr. Harron and, in fact, we got our cases 9 reread where Dr. Harron was involved. 10 So whether or not we had Dr. Harron on a 11 case or not is not any indication to me whether 12 or not the case is strong or weak. 13 Q As -- 14 A And it certainly has no indication on the Ware 15 case, which is a mesothelioma case. And the B 16 read that Dr. Harron did has nothing to do with 17 Mr. Ware's diagnosis of mesothelioma. 18 Q Well, except at the bottom of page 2, 19 Dr. Parmar bases his opinions on the review of 20 Dr. Harron. 21 MR. McDERMOTT: Objection. 22 Q Do you see that at the bottom of page 2? 23 "Based on these reviews and studies, the 24 following." 25 A Yeah, keep reading.</p>	<p style="text-align: right;">Page 220</p> <p>1 MR. ROTH: -- what's this 2 sentence mean to you. 3 A I think I told you what the sentence means to 4 me. 5 Q "Based upon these reviews and studies." Do you 6 have an understanding of what that phrase 7 means? 8 MR. ROTH: All right. 9 Objection. 10 A If you take it in the context of the following, 11 "the following are noted." He said based on 12 these reviews and studies, he's noted the 13 following. Dr. Harron found this. 14 Q So when Dr. Parmar says "Based upon these 15 reviews and studies," you understand that to 16 mean the studies contained in this letter, 17 correct? 18 MR. McDERMOTT: Objection. 19 Q Fair? 20 It's not saying based on every possible 21 study? 22 A He's listing what he's reviewed. 23 Q Okay. 24 A Okay. 25 Q A lawyer would figure that out by reading that?</p>
<p style="text-align: right;">Page 219</p> <p>1 Q "the following are noted." 2 A "Noted." 3 Q Okay. 4 A Not "I relied upon the following to make my 5 diagnosis." 6 "the following are noted." So he notes 7 there's a B read by Dr. Harron. He doesn't 8 say, "I'm relying upon the B read of Dr. Harron 9 to make a diagnosis of mesothelioma." 10 Q What does "based upon these reviews and 11 studies" mean to you? 12 MR. ROTH: Well, 13 objection -- 14 MR. McDERMOTT: Objection. 15 MR. ROTH: -- to form and 16 foundation. 17 MR. ASSAF: Foundation? 18 That he's -- 19 MR. ROTH: Well, you're 20 asking him -- 21 MR. ASSAF: -- acutely 22 aware of all of the clients' cases? 23 MR. ROTH: If I'm allowed 24 to say anything, you're asking -- 25 Q Withdrawn.</p>	<p style="text-align: right;">Page 221</p> <p>1 A Just like a defense doctor -- 2 MR. ROTH: Objection. 3 A -- may say reviewed an x-ray of Dr. Harron. He 4 saw Dr. Harron's x-ray interpretation. 5 Q So as we sit here today, you don't have any 6 basis to question the integrity of reads by 7 Dr. Harron? 8 MR. McDERMOTT: Objection. 9 MR. ROTH: Objection to 10 the form and foundation. 11 A No. I found him to be a very effective and 12 good B reader. 13 Q I'm going to show you Exhibit 150. 14 Defendants' Exhibit 150 is entitled T.H. 15 Agriculture & Nutrition. 16 Have you seen this document before? 17 A I don't recall seeing it. 18 Q Did you see it at any time prior to -- 19 withdrawn. 20 Have you seen it at any time within the 21 past year? 22 A I don't recall seeing it in the past year. 23 Q Did you see it in preparation for your 24 deposition? 25 A No.</p>

<p style="text-align: right;">Page 222</p> <p>1 Q Do you know what it is?</p> <p>2 A It appears to be an affidavit from Donna Ware.</p> <p>3 Q Do you know what it relates to? Well,</p> <p>4 withdrawn.</p> <p>5 Your Donna Ware's attorney, right?</p> <p>6 A Yes.</p> <p>7 Q And I think you said you're aware of all</p> <p>8 aspects of their cases, correct?</p> <p>9 MR. ROTH: Objection.</p> <p>10 Form and foundation.</p> <p>11 A Yeah.</p> <p>12 Q Okay. Do you know, what does this relate to?</p> <p>13 A According to her, her husband, Ralph Ware, was</p> <p>14 exposed to asbestos contained in joint</p> <p>15 compounds and she initialed "Bondex joint</p> <p>16 compound."</p> <p>17 Q Paragraph 2 says, "My spouse performed home</p> <p>18 repair and home remodeling jobs."</p> <p>19 Do you see that?</p> <p>20 A Yes. Uh-huh.</p> <p>21 Q Do you know why that's in the affidavit?</p> <p>22 A I don't know why.</p> <p>23 Q Is this a form affidavit? Did you create this</p> <p>24 for other clients?</p> <p>25 A You know, it looks fairly consistent, you know,</p>	<p style="text-align: right;">Page 224</p> <p>1 Starting on line 2, question, "Did he</p> <p>2 ever perform any remodeling or home improvement</p> <p>3 work after that time?"</p> <p>4 Answer, "If he did -- he wasn't in that</p> <p>5 type of work, he would have people do it for</p> <p>6 us."</p> <p>7 "Did Ralph perform any of his own vehicle</p> <p>8 maintenance?"</p> <p>9 "No."</p> <p>10 Do you see that?</p> <p>11 A Yeah.</p> <p>12 Q So did you understand that your client,</p> <p>13 Mrs. Ware, was saying under oath that Ralph</p> <p>14 didn't perform home remodeling work?</p> <p>15 A Say that again.</p> <p>16 Q Do you understand from this deposition of your</p> <p>17 client that your client was testifying that her</p> <p>18 husband did not perform home remodeling work?</p> <p>19 MR. McDERMOTT: Objection.</p> <p>20 MR. ROTH: Objection.</p> <p>21 Foundation.</p> <p>22 A It looks like that's what she says in the</p> <p>23 deposition.</p> <p>24 Q Based upon your experience in dealing with</p> <p>25 asbestos claimants and in dealing with</p>
<p style="text-align: right;">Page 223</p> <p>1 and sent off to a client and the client either</p> <p>2 signs it or doesn't sign it, you know.</p> <p>3 Q Do you expect it to be truthful?</p> <p>4 A Yeah.</p> <p>5 Q Do you do anything to make sure it's true?</p> <p>6 A Once we get the -- if we get the notarized</p> <p>7 affidavit, we put it in the client's file.</p> <p>8 Q Well, you mentioned, again, you're familiar</p> <p>9 with various aspects of your clients' cases,</p> <p>10 and I asked you about are you familiar with</p> <p>11 their depositions.</p> <p>12 And, you know, Mr. -- Ms. Ware, rather,</p> <p>13 was deposed, right?</p> <p>14 A I don't recall if she was deposed or not. I</p> <p>15 don't recall. I don't think I was at her</p> <p>16 deposition, if she was deposed.</p> <p>17 Q Let me show you Defendants' 149.</p> <p>18 Do you recognize this?</p> <p>19 A I don't know that I've ever seen it. I may</p> <p>20 have.</p> <p>21 Q Well, this deposition was taken at a time you</p> <p>22 were representing her, correct?</p> <p>23 A Correct.</p> <p>24 Q All right. Could you turn to page 54 of the</p> <p>25 deposition?</p>	<p style="text-align: right;">Page 225</p> <p>1 Ms. Ware, can you provide any explanation of</p> <p>2 why the affidavit is inconsistent with the</p> <p>3 testimony?</p> <p>4 MR. McDERMOTT: Objection.</p> <p>5 A I don't know whether that's inconsistent or</p> <p>6 not. I don't know. Maybe she thought of</p> <p>7 something else that he had done with respect to</p> <p>8 joint compound. I really don't know.</p> <p>9 Q Did you have -- prior to coming in today, did</p> <p>10 you have any understanding that the affidavit</p> <p>11 was inconsistent with her deposition testimony?</p> <p>12 MR. ROTH: Objection.</p> <p>13 MR. McDERMOTT: Objection.</p> <p>14 MR. ROTH: Foundation.</p> <p>15 A I haven't -- I already told you I don't know</p> <p>16 that I've seen this document or the deposition.</p> <p>17 So ...</p> <p>18 Q Would you expect that the lawyers at your firm</p> <p>19 would check the affidavit to make sure it was</p> <p>20 consistent with the deposition testimony?</p> <p>21 A No. I assume that if she put it in the</p> <p>22 affidavit, she put it -- and signed it, she was</p> <p>23 accurate about it.</p> <p>24 Q You don't think the lawyer had any duty to</p> <p>25 check what was being sworn to was consistent</p>

<p style="text-align: right;">Page 226</p> <p>1 with prior statements?</p> <p>2 MR. ROTH: Objection --</p> <p>3 A No.</p> <p>4 MR. ROTH: -- to form and</p> <p>5 foundation.</p> <p>6 Q Do you think defense lawyers have -- should</p> <p>7 have the same approach, that they don't have to</p> <p>8 check to see whether or not an affidavit is</p> <p>9 inconsistent with prior sworn testimony?</p> <p>10 A Again it depends on the situation. You know,</p> <p>11 if the defense lawyers know that what they're</p> <p>12 putting out in an affidavit or in Court</p> <p>13 pleadings is a lie, I think they have an</p> <p>14 obligation to tell the truth.</p> <p>15 Q Do you think that the Bevan attorneys had an</p> <p>16 obligation to make sure that Ms. Ware was</p> <p>17 telling the truth?</p> <p>18 MR. McDERMOTT: Objection.</p> <p>19 A This is Ms. Ware's statement. So, you know,</p> <p>20 all we can go on is what our client told us.</p> <p>21 Q But you got compensation because she submitted</p> <p>22 that statement, right?</p> <p>23 A I don't think so.</p> <p>24 Q You don't think she received money from T.H.</p> <p>25 Agriculture & Nutrition?</p>	<p style="text-align: right;">Page 228</p> <p>1 A I would be surprised.</p> <p>2 Q I don't know. Why don't you check that out?</p> <p>3 A I'll check it out.</p> <p>4 Q All right.</p> <p>5 MR. ROTH: I'm not sure if</p> <p>6 there were questions or just discussion --</p> <p>7 MR. ASSAF: Just</p> <p>8 discussion.</p> <p>9 MR. ROTH: -- but I think</p> <p>10 there's a foundation objection in there</p> <p>11 somewhere.</p> <p>12 Q Would you agree with me that Ms. Ware</p> <p>13 submitted -- withdrawn.</p> <p>14 Would you agree with me that a plaintiff</p> <p>15 who signed a false affidavit is differently</p> <p>16 situated than other plaintiffs who haven't</p> <p>17 submitted false affidavits?</p> <p>18 MR. McDERMOTT: Objection.</p> <p>19 MR. ROTH: Objection.</p> <p>20 Foundation.</p> <p>21 MR. McDERMOTT: Foundation.</p> <p>22 A I don't know how -- that question doesn't make</p> <p>23 any sense to me, so I don't know.</p> <p>24 Q Okay. Let's try it this way.</p> <p>25 We were talking about strengths and</p>
<p style="text-align: right;">Page 227</p> <p>1 A I don't think so.</p> <p>2 Q Okay. Let's pull that out.</p> <p>3 Did you submit this to T.H. Agriculture?</p> <p>4 Was it a trust?</p> <p>5 A I don't know if it was submitted or not.</p> <p>6 Q Who would know that?</p> <p>7 A I could find out from my people that handled</p> <p>8 the claims.</p> <p>9 Q And do you know what the payouts were?</p> <p>10 A For --</p> <p>11 Q Yes.</p> <p>12 A I don't know.</p> <p>13 Q Could you check that for me?</p> <p>14 A Yeah, I could find that out, what the end pay</p> <p>15 is on cases. I --</p> <p>16 Q No, whether Ms. Ware got money.</p> <p>17 A Oh, whether she got paid. Yeah, I could check</p> <p>18 that out.</p> <p>19 Q I think she thinks she did.</p> <p>20 A She thinks she did?</p> <p>21 Q Yeah.</p> <p>22 A I would be surprised.</p> <p>23 Q Okay.</p> <p>24 A But I could be wrong on that.</p> <p>25 Q All right. I could be wrong too.</p>	<p style="text-align: right;">Page 229</p> <p>1 weaknesses of cases, right?</p> <p>2 A Yes.</p> <p>3 Q In terms of your assessing the value of a case,</p> <p>4 would you agree with me that if you have a</p> <p>5 client who has an affidavit that's false, that</p> <p>6 that makes it a weaker case, all things being</p> <p>7 equal?</p> <p>8 MR. ROTH: Objection to</p> <p>9 foundation.</p> <p>10 Q Or you think it just doesn't matter?</p> <p>11 MR. McDERMOTT: Objection.</p> <p>12 A Yeah, again I don't -- I don't really know how</p> <p>13 to answer that question.</p> <p>14 Q You can't answer that question?</p> <p>15 A No.</p> <p>16 Q Do you think there's any import to having a</p> <p>17 false affidavit?</p> <p>18 MR. McDERMOTT: Objection.</p> <p>19 A It depends, I guess, on the circumstance,</p> <p>20 but --</p> <p>21 Q Let's try it this way.</p> <p>22 Based upon of all your experience in</p> <p>23 submitting claims and affidavits for clients,</p> <p>24 do you have any concern regarding a false</p> <p>25 affidavit by a claimant?</p>

<p style="text-align: right;">Page 230</p> <p>1 MR. ROTH: Objection to 2 form. 3 A I don't recall it ever being an issue on any 4 case I've ever handled. 5 Q Not a problem for you? 6 MR. ROTH: Objection. 7 MR. McDERMOTT: Objection. 8 A I can't recall ever having a problem with a 9 client doing a false affidavit. 10 Q Well, now knowing about Ms. Ware's sworn 11 testimony in a deposition and this affidavit, 12 are you going to go talk to her? 13 MR. McDERMOTT: Objection. 14 MR. ROTH: Objection. 15 A I guess I would have to get an Ouija board out 16 to talk to Mrs. Ware. 17 Q Do you have any concerns of whether this was 18 submitted to a Court or a trust? 19 A I don't know what her basis was for saying 20 that, so I don't know and I can't determine 21 that now. 22 Q Okay. Do you know how much Mrs. Ware received 23 in settlements? 24 A I do not. 25 Q Does a million dollars sound about right?</p>	<p style="text-align: right;">Page 232</p> <p>1 correct? 2 MR. ROTH: Objection to 3 form. 4 A I'm sure I gave them something. 5 Q But you just -- as we sit here today, you can't 6 recall the facts regarding the settlement 7 negotiations or even if there were settlement 8 negotiations regarding Ware? 9 A No. I have to look at the file to see if there 10 was a check that was paid to Mr. Ware or 11 Mrs. Ware as a result of the talc settlement. 12 That's what I would have to do. 13 Q But I'm asking about the facts regarding the 14 negotiations. 15 A I don't recall. 16 Q But you must have recalled it sometime, because 17 Mr. Placitella wasn't involved in the Ware 18 settlement negotiations back in 2002, was he? 19 A He was not. 20 Q Right. You were. 21 A I don't know what was discussed, if there was a 22 settlement negotiation on the Ware case or not. 23 I don't recall. 24 Q My question is, Mr. Bevan, how would 25 Mr. Placitella learn the facts of what happened</p>
<p style="text-align: right;">Page 231</p> <p>1 A It would be a guess, so I really don't know. 2 Q Do you know whether Mrs. Ware settled with the 3 talc defendants? 4 A I don't know. 5 Q Well, when you had a discussion with Ms. Ware, 6 did you tell her that the talc defendants lied 7 to her or lied to you regarding her case? 8 MR. McDERMOTT: Objection. 9 A I'm sure I did, yes. 10 Q So did they lie to you in settlement 11 discussions, or was her case dismissed on the 12 merits? 13 MR. McDERMOTT: Objection. 14 A I don't know how her case was resolved. 15 Q You can't remember? 16 A No. 17 Q Well, what did you tell Mr. Placitella about 18 it? 19 MR. McDERMOTT: Objection. 20 MR. ROTH: Objection. 21 A I don't recall. Whatever happened happened. 22 The case was either settled or dismissed 23 against the talc company. One or the other. 24 Q Well, since 2010, you've provided facts to 25 Mr. Placitella regarding the Ware case,</p>	<p style="text-align: right;">Page 233</p> <p>1 in the Ware case except from you? 2 A I can go to the file and tell you whether or 3 not the talc companies paid Mr. Ware or if 4 Mr. Ware dismissed Eastern Magnesia without 5 payment. That's what I can do. 6 Q But I'm asking you: Do you have any 7 independent recollection of what was said 8 regarding the Ware settlement negotiations at 9 the time of the Ware litigation? 10 A Yeah -- 11 MR. ROTH: Objection. 12 A -- with respect to Ware, no, I don't have any 13 independent recollection of what was discussed 14 with the talc -- with Eastern Magnesia Talc. 15 Q Back at the time closer to the events in 16 question, 2009, 2010, when Mr. Placitella 17 called you, did you have a better recollection 18 of what happened with Ware? 19 A I don't think. 20 Q Did you, over the course of the last few years 21 in communicating with Mr. Placitella, provide 22 him with any facts other than "I don't recall" 23 regarding Ware? 24 MR. McDERMOTT: Objection. 25 MR. ROTH: Objection to</p>

<p style="text-align: right;">Page 234</p> <p>1 form.</p> <p>2 A I believe I would have provided him with the</p> <p>3 facts of where Mr. Ware worked, what his</p> <p>4 disease was, when he worked there, and whether</p> <p>5 or not we had filed suit against Eastern</p> <p>6 Magnesia Talc or the Eastern Magnesia Talc</p> <p>7 entities. That would have been the information</p> <p>8 that I would have given to him.</p> <p>9 And I may have looked at the file to</p> <p>10 determine if we got a talc settlement or</p> <p>11 didn't. I don't recall. I don't recall that,</p> <p>12 the answer to that.</p> <p>13 Q Do you know when the Ware case was dismissed?</p> <p>14 A I don't.</p> <p>15 Q Do you know any of the circumstances regarding</p> <p>16 its dismissal?</p> <p>17 MR. McDERMOTT: Objection.</p> <p>18 A No.</p> <p>19 Q Did you ever provide information regarding</p> <p>20 whether the Ware case was dismissed because of</p> <p>21 some settlement to Mr. Placitella?</p> <p>22 A If there was a settlement, it would be in the</p> <p>23 file.</p> <p>24 Q But did you ever talk to him about it?</p> <p>25 A I don't recall talking to him about it, no.</p>	<p style="text-align: right;">Page 236</p> <p>1 talc product and the absence of any evidence</p> <p>2 indicating Engelhard's talc contained asbestos</p> <p>3 fibers that were made to their attorney and</p> <p>4 representative, Thomas Bevan, Esquire, as more</p> <p>5 particularly set forth herein, Plaintiff Ware</p> <p>6 and her husband's estate in 2003 voluntarily</p> <p>7 dismissed their lawsuit against Engelhard's</p> <p>8 predecessors as part of a multi-plaintiff,</p> <p>9 multi-talc defendant settlement that BASF's</p> <p>10 predecessors were party to, without receiving</p> <p>11 any full, fair and adequate compensation for</p> <p>12 their asbestos injury.</p> <p>13 Do you see that?</p> <p>14 A Yes.</p> <p>15 Q Do you know how Mr. Placitella knew that?</p> <p>16 A It must be in the file. I must have told him</p> <p>17 that, you know, we dismissed the case and that</p> <p>18 Ware didn't get paid by any of the talc</p> <p>19 companies. I'm not sure about that 1997 date.</p> <p>20 That seems like maybe that's a typo.</p> <p>21 Q How would I find out the facts regarding the</p> <p>22 multiparty defendant settlement referenced in</p> <p>23 paragraph 28?</p> <p>24 A It would either be in those settlement files,</p> <p>25 so on a dismissal or something in there, or in</p>
<p style="text-align: right;">Page 235</p> <p>1 Q Did you ever email -- this four- or five-inch</p> <p>2 stack of emails. Did you ever email him about</p> <p>3 it?</p> <p>4 MR. ROTH: Objection.</p> <p>5 MR. McDERMOTT: Objection.</p> <p>6 A I don't recall emailing him about it.</p> <p>7 Q So anything that he got from the complaint</p> <p>8 would have just been from the documents,</p> <p>9 because you have no independent recollection?</p> <p>10 MR. ROTH: Objection.</p> <p>11 Form and --</p> <p>12 Q Of the Ware.</p> <p>13 MR. ROTH: Form and</p> <p>14 foundation.</p> <p>15 MR. McDERMOTT: Objection.</p> <p>16 A Of what ended up happening, whether Ware was</p> <p>17 settled or dismissed, I would go to the file to</p> <p>18 determine that.</p> <p>19 Q So what is it in the file that -- could you</p> <p>20 turn to paragraph 28 in the second amended</p> <p>21 complaint, D Ex 1?</p> <p>22 A Yeah.</p> <p>23 Q In the middle, it says: Reasonably relying and</p> <p>24 acting upon the misrepresentations and material</p> <p>25 omissions of Defendants regarding Emtal's [sic]</p>	<p style="text-align: right;">Page 237</p> <p>1 the client's file that -- if there was a</p> <p>2 settlement, you know, it would be in the client</p> <p>3 file.</p> <p>4 Q So other than looking at documents that you</p> <p>5 produced, you don't have any other information</p> <p>6 to produce, to give to me?</p> <p>7 A No, I could probably go online to the court</p> <p>8 system and see if I could find, you know, a</p> <p>9 dismissal.</p> <p>10 Q As we sit here today, Mr. Bevan, can you</p> <p>11 provide me with any information other than</p> <p>12 what's in the documents?</p> <p>13 MR. ROTH: Objection.</p> <p>14 Form and foundation.</p> <p>15 MR. McDERMOTT: Objection.</p> <p>16 A As far as stuff that I recall that's not in the</p> <p>17 documents?</p> <p>18 Q As far as regarding Ware's decision to</p> <p>19 voluntarily terminate and enter into a</p> <p>20 multiparty settlement. Do you have any</p> <p>21 recollection of any of the facts other than</p> <p>22 what's in the documents?</p> <p>23 A Yeah, I don't -- no, I don't recall exactly how</p> <p>24 the Ware case got concluded, as I sit here</p> <p>25 today.</p>

<p style="text-align: right;">Page 238</p> <p>1 Q Okay.</p> <p>2 A If I spend some time researching it, I could</p> <p>3 probably figure it out, but as I sit here</p> <p>4 today, I don't recall exactly how the Ware case</p> <p>5 resolved against Eastern Magnesia Talc.</p> <p>6 Q Is it the same for the other plaintiffs? I'll</p> <p>7 short circuit this.</p> <p>8 Do you have -- other than what's in the</p> <p>9 documents, do you have any independent</p> <p>10 recollection of why any of the named plaintiffs</p> <p>11 cases were settled?</p> <p>12 A Oh, I have --</p> <p>13 MR. ROTH: Excuse me.</p> <p>14 Objection to form and foundation. You're --</p> <p>15 MR. ASSAF: Okay.</p> <p>16 MR. ROTH: -- conflating</p> <p>17 your questions here and it's not fair.</p> <p>18 A I have -- I think of the five cases, I would</p> <p>19 have the least recollection of the Ware case.</p> <p>20 Q Okay. Fair enough.</p> <p>21 Okay. Let's go to -- what's the one you</p> <p>22 have the most recollection of?</p> <p>23 A Oh, it would probably be Damell.</p> <p>24 Q Okay. How about Jennifer Graham's case?</p> <p>25 A I have recollection of Jennifer Graham. I</p>	<p style="text-align: right;">Page 240</p> <p>1 Q So you think a product ID analysis under Ohio</p> <p>2 law includes whether there's asbestos in the</p> <p>3 product?</p> <p>4 A Certainly.</p> <p>5 MR. ROTH: Objection to</p> <p>6 form and foundation.</p> <p>7 Q And the cases that you've litigated regarding,</p> <p>8 for example, R.T. Vanderbilt, had to do with</p> <p>9 whether there was asbestos in the product, as</p> <p>10 opposed to whether they were just exposed to a</p> <p>11 product?</p> <p>12 MR. McDERMOTT: Objection.</p> <p>13 MR. ROTH: Objection to</p> <p>14 form --</p> <p>15 MR. McDERMOTT: Form and --</p> <p>16 MR. ROTH: -- and</p> <p>17 foundation.</p> <p>18 MR. McDERMOTT: -- foundation.</p> <p>19 Q Wow. They don't like that question at all.</p> <p>20 I'll try a different one. Withdrawn.</p> <p>21 MR. ROTH: Thank you.</p> <p>22 Q Let's talk about Ms. Graham.</p> <p>23 A Sure.</p> <p>24 Q Let's see where the complaint is.</p> <p>25 MR. ASSAF: That was a good</p>
<p style="text-align: right;">Page 239</p> <p>1 think I recall how that got resolved against</p> <p>2 Eastern Magnesia. I thought they got out on</p> <p>3 summary judgment, but that's my recollection.</p> <p>4 Q Summary judgment on product ID?</p> <p>5 A I think it was summary judgment on asbestos</p> <p>6 content, which would, you know, be a similar</p> <p>7 product ID. I mean, I think the Court looked</p> <p>8 at that as one and the same.</p> <p>9 Q Product ID is --</p> <p>10 A What's with the weird look on your face? You</p> <p>11 know --</p> <p>12 Q Because product ID is the same as asbestos</p> <p>13 content?</p> <p>14 MR. ROTH: That's not what</p> <p>15 he said.</p> <p>16 MR. McDERMOTT: Objection.</p> <p>17 A I said I think that's looked at as the same.</p> <p>18 So what the Court is determining is was this</p> <p>19 person exposed to an asbestos product</p> <p>20 manufactured or supplied by the defendant, and</p> <p>21 that's a two-part test.</p> <p>22 Okay. One, did the defendant supply that</p> <p>23 product or sell that product to the worksite</p> <p>24 where the client worked. And, two, did that</p> <p>25 product actually cause -- contain asbestos.</p>	<p style="text-align: right;">Page 241</p> <p>1 objection.</p> <p>2 MR. McDERMOTT: Thank you. I</p> <p>3 really feel better.</p> <p>4 Q I'm going to show you Exhibit 39, Defendants'</p> <p>5 Exhibit 39.</p> <p>6 This is a summons dated April 11, 2008</p> <p>7 attaching a multiparty -- a multi-defendant</p> <p>8 complaint on behalf of Jennifer Graham.</p> <p>9 Do you recognize this?</p> <p>10 A Yes.</p> <p>11 Q So this is roughly how many years after you say</p> <p>12 you believed Cahill when they told you there</p> <p>13 was no asbestos in Emtal talc?</p> <p>14 A I would say roughly -- roughly 15 years or so.</p> <p>15 Q At any point did you call up Cahill and say "I</p> <p>16 believe you there's no asbestos in the talc,</p> <p>17 but I'm just going to keep filing cases</p> <p>18 anyway"?</p> <p>19 A I don't think I ever had that conversation with</p> <p>20 them, no.</p> <p>21 Q Did they ever have that conversation with you</p> <p>22 saying, "Hey, I thought we told you there's no</p> <p>23 asbestos in the talc and you keep filing these</p> <p>24 cases against my client"?</p> <p>25 A I think they always threw it in my face, that</p>

<p style="text-align: right;">Page 242</p> <p>1 we had dismissed them in the past, why am I 2 suing them again. 3 Q And did you tell them it's because you don't 4 believe them or you do believe them or you had 5 tactical reason? 6 A I told them -- I'm sure that I told them that 7 I've got other defendants pointing the finger 8 at you and I'm not going to have an open chair 9 and I got Sam Martillotta telling me that I 10 can't -- I got to have you in on the cases if 11 we're going to do any deals. 12 Q But did you tell them that you did believe them 13 that there's no asbestos in the talc? 14 MR. ROTH: Objection to 15 the form and foundation. 16 MR. McDERMOTT: Objection. 17 A I don't know if I told them I believed them, 18 but I told them, you know, I don't have any 19 evidence to show that there was asbestos in the 20 talc, so put forth your case, put forth your 21 defense. 22 Q Okay. So then -- withdrawn. 23 Who's John Mismas? Mismas? 24 A He was an attorney that used to work at my 25 firm.</p>	<p style="text-align: right;">Page 244</p> <p>1 Q Okay. 2 A I would say if she knew what Cahill Gordon did 3 and Eastern Magnesia Talc, then she's not 4 trustworthy. 5 Q You keep saying if they knew what Cahill Gordon 6 did. 7 How do you know what Cahill Gordon did? 8 A What's been reported to me. 9 Q Based on what Mr. Placitella told you and what 10 he wrote in the complaint? 11 A Yeah. 12 MR. ROTH: Objection. 13 Form and foundation. 14 A If it's not true, then, you know. 15 Q Your factual basis for believing Cahill Gordon 16 lied is Mr. Placitella? 17 A Yes. 18 MR. McDERMOTT: Objection. 19 MR. ROTH: Objection. 20 MR. ASSAF: Basis? 21 MR. ROTH: You got your 22 question, you get your answer. Main objection. 23 Q Could you turn to the second page of this? 24 It says, "The Affidavit of William H. 25 Ashton summarizes numerous investigations,</p>
<p style="text-align: right;">Page 243</p> <p>1 Q Did he have dealings on the Emtal case for 2 Jennifer Graham? 3 A On the Jennifer Graham. He worked on the 4 Jennifer Graham case. 5 Q Did he report to you on what was happening? 6 A Yes. 7 Q I'm going to show you what's been marked as 8 Defendants' Exhibit 46. 9 It's a November 12, 2008 letter unsigned 10 to John Mismas apparently from Jennifer 11 Riester. 12 Do you recognize this? 13 A I don't know if I saw this at the time or not. 14 I'm not sure. 15 Q Do you have any independent recollection of 16 this document? 17 A When I'm looking down and seeing these 18 dismissals, it -- yeah, it rings a bell. So I 19 think I probably saw this at the time. 20 Q Okay. Do you know Jennifer Riester? 21 A Yes. 22 Q Trustworthy? 23 A I don't know. 24 Q Reputation for honesty? 25 A I don't know.</p>	<p style="text-align: right;">Page 245</p> <p>1 examinations, and studies of the Johnson mine. 2 The conclusion derived from all of these 3 studies is that the talc produced from this 4 mine did not contain asbestos." 5 Do you see that? 6 A Yes. 7 Q Have you ever reviewed the Ashton affidavit? 8 A I assume that I did. I probably did. I don't 9 recall the names. I reviewed the stuff that 10 they had submitted to us over the years. 11 Q And you would have reviewed this carefully? 12 A I think I would have reviewed it carefully. 13 Q Okay. It says here that the affidavit 14 summarizes numerous investigations, 15 examinations, and studies of the Johnson mine. 16 Do you see that? 17 A Yes. 18 Q Does that mean to you that Ashton summarizes 19 every investigation ever done on the Johnson 20 mine? 21 MR. McDERMOTT: Objection. 22 A Yes. 23 Q It does? 24 A I assume, yes. I assume he wouldn't have left 25 anything out.</p>

<p style="text-align: right;">Page 246</p> <p>1 Q Okay. So when it says "numerous," you think 2 that that means everything? 3 MR. McDERMOTT: Objection. 4 A I see he says derived from all of the 5 studies -- these studies that the talc produced 6 did not contain asbestos. So I assume that he 7 wasn't holding anything back. Whether he was 8 or not, I don't know if he was or not. 9 I assume that he wasn't holding anything 10 back. 11 Q Well, it says, "these studies." If you want to 12 diagram this, going back to law school, "these 13 studies" refer to what? 14 MR. McDERMOTT: Objection. 15 MR. ROTH: Objection. 16 A I assume it's studies from the -- of the 17 Eastern Magnesia Talc mine that he reviewed. 18 Q The numerous studies, correct? 19 A Uh-huh. 20 Q Okay. So could you pull back out Exhibit 151? 21 It's the Dr. Parmar declaration. 22 In the bottom of page 2 where he says 23 "Based on these reviews and studies." Now, do 24 you read that phrase to mean based on every 25 review and study ever done on Mr. Ware, or</p>	<p style="text-align: right;">Page 248</p> <p>1 A I think his opinion -- I think he has 2 considered every single thing that I gave him. 3 So I'm assuming -- or that my office gave him. 4 So I assume that he lists every single thing 5 that he got from us. 6 Q Do you know that? 7 MR. McDERMOTT: Objection. 8 Q Withdrawn. 9 As we sit here today, do you know that 10 Dr. Parmar's report lists everything that you 11 gave him? Can you testify to that? 12 A I can testify looking at what he's reviewed, 13 this is what we would typically give him. 14 Q And why does he, based upon your experience, 15 identify for the reader what he's basing his 16 opinion on? 17 MR. ROTH: Objection. 18 A He's noting all of these pertinent medical 19 effects. 20 Q Is there a reason why you don't want to say it 21 refers just to the nine things? 22 MR. McDERMOTT: Objection. 23 MR. ROTH: Objection. 24 Form. 25 A I'm saying that -- that's what I'm saying,</p>
<p style="text-align: right;">Page 247</p> <p>1 based on the things above? 2 MR. McDERMOTT: Objection. 3 A I think he's saying based on everything that he 4 has, he's noting the following. So I presume 5 he didn't hold anything back. 6 Q So he lists six things, correct? 7 MR. ROTH: Which "he" are 8 we talking about? I'm sorry. 9 MR. ASSAF: Exhibit 151. 10 THE WITNESS: From Dr. Parmar 11 in the Ware case. 12 Q I have reviewed various medical records and 13 studies. And he lists six things, correct? 14 A Well, he's really listing nine things, because 15 he's listed -- 16 Q Fair enough. 17 A -- surgical pathology material. 18 Q Plus nine things. 19 So do you think that his opinion is based 20 on the review of those nine items -- 21 MR. McDERMOTT: Objection. 22 Q -- or something beyond those? 23 MR. ROTH: Objection to 24 form and foundation. 25 MR. McDERMOTT: Objection.</p>	<p style="text-align: right;">Page 249</p> <p>1 these nine -- these things that we gave him. 2 Q That's how you as a lawyer would read it, that 3 it's based upon these nine items that I'm -- 4 A I'm basing -- I'm reading it that he's basing 5 his opinion on every single thing that he had 6 in front of him to review in the Ware case. 7 Q But it doesn't say that. It says these nine 8 things. 9 MR. McDERMOTT: Objection. 10 MR. ROTH: Objection. 11 A Yeah, and I think that's probably everything 12 that he had. 13 Q But you don't know that, do you, Mr. Bevan? 14 I'm -- 15 A I think I answered your question. 16 Q Withdrawn. 17 A I said looking at what he listed, that's 18 everything that we would typically give an 19 expert. 20 Q I'm asking you questions as a factual witness, 21 okay? 22 Can you tell me and the Court that you 23 know that everything you gave him is listed 24 here? Can you tell me that for certain? 25 A I can tell you that it's extremely likely that</p>

<p style="text-align: right;">Page 250</p> <p>1 everything that we gave him is listed there.</p> <p>2 Q Based upon these reviews and studies, you think</p> <p>3 that means everything regarding Mr. Ware?</p> <p>4 MR. ROTH: Objection.</p> <p>5 Q Withdrawn.</p> <p>6 A Your question doesn't make any sense.</p> <p>7 Q So let's explore this a little bit.</p> <p>8 So your approach to lawyering is that if</p> <p>9 there's an adverse opinion, like, for example,</p> <p>10 a doctor raises a question of whether somebody</p> <p>11 actively had meso, that that should be</p> <p>12 disclosed to a Court or opposing counsel or,</p> <p>13 say, a bankruptcy trust? Is that how you</p> <p>14 approach your practice?</p> <p>15 MR. McDERMOTT: Objection.</p> <p>16 MR. ROTH: Objection to</p> <p>17 form, foundation.</p> <p>18 A You know, you're not giving me enough</p> <p>19 information so --</p> <p>20 Q Well, you said you want to --</p> <p>21 MR. ROTH: Well, I'm</p> <p>22 sorry --</p> <p>23 Q You want to identify everything.</p> <p>24 MR. ROTH: Excuse me,</p> <p>25 Mr. Assaf.</p>	<p style="text-align: right;">Page 252</p> <p>1 A We --</p> <p>2 MR. ROTH: Objection.</p> <p>3 A -- submit to the bankruptcy trust, if it's a</p> <p>4 mesothelioma case, a diagnosing medical report</p> <p>5 diagnosing mesothelioma. That's all we have to</p> <p>6 submit to the bankruptcy court. We don't give,</p> <p>7 you know, 10,000 pages of records.</p> <p>8 Q And if there's a medical record -- if there's a</p> <p>9 medical record suggesting that the person</p> <p>10 didn't have mesothelioma, do you submit that as</p> <p>11 well?</p> <p>12 MR. McDERMOTT: Object to form</p> <p>13 and foundation.</p> <p>14 A No. If there's one that suggested that he did</p> <p>15 have mesothelioma, we submit the report that</p> <p>16 indicates it's mesothelioma.</p> <p>17 Q You submit the one that's favorable for your</p> <p>18 client?</p> <p>19 MR. ROTH: Objection.</p> <p>20 A The one that diagnoses mesothelioma, yes.</p> <p>21 Q Okay. So let's get out the -- we'll get out</p> <p>22 the Ashton affidavit in a second, but if you</p> <p>23 continue on, it says: A sample from the</p> <p>24 Johnson mine was analyzed in 1982 using</p> <p>25 Scanning Electron Microscopy (SEM) and EDS, as</p>
<p style="text-align: right;">Page 251</p> <p>1 Were you finished with your answer?</p> <p>2 Q Withdrawn. Withdrawn.</p> <p>3 Is it your opinion that a lawyer should</p> <p>4 disclose everything, including adverse</p> <p>5 evidence, to any opponent?</p> <p>6 A I think --</p> <p>7 MR. ROTH: Objection.</p> <p>8 Form and foundation.</p> <p>9 A Again it depends on what the evidence is. So</p> <p>10 I'll just have to give you examples. If --</p> <p>11 Q It's really a yes or no question.</p> <p>12 A No, it isn't a yes or no question.</p> <p>13 MR. ROTH: Objection.</p> <p>14 MR. McDERMOTT: Objection.</p> <p>15 A You can be snarky as much as you want, it's not</p> <p>16 a yes or no question. So if you want a yes or</p> <p>17 no answer, I can't give you a yes or no answer.</p> <p>18 Q You can't answer the question whether you have</p> <p>19 an obligation to disclose adverse evidence?</p> <p>20 A I said it depends on the circumstances. If you</p> <p>21 would like, I can explain.</p> <p>22 Q Based upon your experience, have you disclosed</p> <p>23 adverse evidence, whether somebody has</p> <p>24 mesothelioma, to bankruptcy trusts?</p> <p>25 MR. McDERMOTT: Objection.</p>	<p style="text-align: right;">Page 253</p> <p>1 well as x-ray diffraction analysis and TEM.</p> <p>2 The analysis revealed that no asbestos was</p> <p>3 present in the sample.</p> <p>4 Do you see that?</p> <p>5 A Yes.</p> <p>6 Q Do you have any reason to believe that's</p> <p>7 untrue?</p> <p>8 A I don't know one way or the other.</p> <p>9 Q Did you rely on that in settling the case?</p> <p>10 A In what we've done in the past, I relied upon</p> <p>11 what Eastern Magnesite told us, which is there</p> <p>12 was no asbestos in our talc. Whether it was</p> <p>13 the Ashton affidavit or whatever else they gave</p> <p>14 me, you know, whether it was their pleadings,</p> <p>15 whether it was their letters. Whatever it was,</p> <p>16 that's what I relied upon.</p> <p>17 Q Well, did you rely on -- withdrawn.</p> <p>18 In determining to settle or dismiss</p> <p>19 cases, did you rely on statements from</p> <p>20 Engelhard that they had conducted testing in</p> <p>21 1982 and found no asbestos in the sample</p> <p>22 tested?</p> <p>23 A I don't recall the year, when they said they</p> <p>24 tested. I relied upon them saying there was no</p> <p>25 asbestos in their talc.</p>

<p style="text-align: right;">Page 254</p> <p>1 Q But as a lawyer, you wanted to understand the 2 factual basis for that claim, correct? 3 MR. ROTH: Objection. 4 A I inquired to them and they said there was no 5 asbestos in their talc. I'm not sure what else 6 to tell you. I believed them. 7 Q But they gave you other information to support 8 whatever claim was being made, didn't they, 9 Mr. Bevan? 10 MR. McDERMOTT: Objection. 11 A They give me things. They give me affidavits 12 and/or reports along with their letter. 13 Q They told you that there was testing done in 14 1982 from a sample and they found no asbestos. 15 I'm just asking: Did you rely on that or not? 16 A I don't -- again, for purposes of this case, 17 the letter in this case, I don't think we 18 dismissed Eastern Magnesia Talc. I think they 19 got out on summary judgment. I think. 20 Q In terms of your career dealing with Eastern 21 Magnesia Talc, did you rely on the Ashton 22 affidavit in dismissing cases? 23 A I don't recall the name. So I think it's in 24 the records, the letters to them -- to me and 25 what they provided me. Whether it was Ashton</p>	<p style="text-align: right;">Page 256</p> <p>1 MR. McDERMOTT: Objection. 2 Q Well, you don't know if they did anything, do 3 you, Mr. Bevan? 4 A I guess if they didn't do anything and 5 Mr. Placitella's lying, then, you know, he's 6 the one that fooled me, not Eastern Magnesia 7 Talc. 8 Q In dismissing or resolving cases with Engelhard 9 in 1992 to 2008, did you rely on the 1997 NIOSH 10 study referenced in this letter? 11 A You mean 1977? 12 Q 1977. 13 A I don't recall. I don't know if that's what 14 they gave me back in the day or not. I don't 15 recall. 16 Q If they gave it to you, you would have reviewed 17 it? 18 A I would have reviewed it if they gave it to me. 19 Q You would have reviewed it with a critical eye 20 and weighed whether it was credible or not, 21 fair? 22 A I would have -- it would have just been one of 23 the pieces of evidence that I looked at that 24 they provided. 25 Q And in deciding to dismiss cases you do, you</p>
<p style="text-align: right;">Page 255</p> <p>1 or somebody else, I don't recall the names, but 2 they provided letters to me and they provided 3 reports that said there's no asbestos in our 4 talc. 5 Q Is there a difference to you as a practicing 6 and experienced lawyer between a letter from 7 opposing counsel and between a sworn affidavit? 8 MR. McDERMOTT: Objection. 9 A Well, there's certainly a difference. 10 Whether -- you know, I treated them the same. 11 I assumed that the lawyers weren't going to lie 12 in their pleadings and their letters to me, in 13 their conversations to me. 14 Q So you treat letters, even today, in litigation 15 the same as you would treat an affidavit? 16 A I try to, yeah. You know -- 17 Q So -- 18 A -- I guess I'm more skeptical today than I was 19 20 years ago. 20 Q Because of what Mr. Placitella told you? 21 MR. ROTH: Objection to -- 22 A Because of what -- 23 MR. ROTH: -- form and 24 foundation. 25 A -- your clients did.</p>	<p style="text-align: right;">Page 257</p> <p>1 weigh various pieces of evidence; the NIOSH 2 study, samples, letters, affidavits, that all 3 goes into your judgment as an experienced trial 4 lawyer, correct? 5 A It may or may not, depending on what it is. 6 Q Well, in this case, you certainly wouldn't have 7 ignored the sample studies in terms of coming 8 to some reliance on Engelhard, would you? 9 MR. McDERMOTT: Objection. 10 A In this case, I reviewed what Eastern Magnesia 11 Talc gave me and in the context of them not 12 giving me the studies that show that there was 13 asbestos in their talc. Had they given me the 14 studies that showed that there was asbestos in 15 their talc, it would have been an entirely 16 different result. 17 Q Okay. I'm not asking you about what would have 18 been, I'm asking you what you relied on, okay? 19 A Yeah, but what I rely upon is not in a vacuum. 20 Okay. What I rely upon has to be taken into 21 context. It's in the context of Engelhard -- 22 or Eastern Magnesia Talc not giving me the 23 correct information, the truthful information. 24 And so they gave me this part and that's 25 what -- that's all I had to rely upon.</p>

<p style="text-align: right;">Page 258</p> <p>1 Q And again that answer is based upon</p> <p>2 Mr. Placitella telling you that not everything</p> <p>3 was given to you, correct?</p> <p>4 MR. ROTH: Objection to</p> <p>5 form and foundation.</p> <p>6 MR. McDERMOTT: Objection.</p> <p>7 A I think that's the extent of the information I</p> <p>8 have on that. I don't have any independent</p> <p>9 information. I believe there's some documents</p> <p>10 out there that are on appeal and hopefully at</p> <p>11 some point I'll get to look at them and I'll be</p> <p>12 able to answer with more information.</p> <p>13 Q If Mr. Placitella didn't tell you that</p> <p>14 Engelhard had lied and not given you documents,</p> <p>15 your testimony would be different?</p> <p>16 MR. McDERMOTT: Objection.</p> <p>17 A I would still be in the dark if he didn't tell</p> <p>18 me.</p> <p>19 Q And your testimony as a fact witness would be</p> <p>20 different absent what Mr. Placitella told you,</p> <p>21 correct?</p> <p>22 MR. McDERMOTT: Objection.</p> <p>23 MR. ROTH: Objection to</p> <p>24 form and foundation.</p> <p>25 A Again that depends on what's being asked of me.</p>	<p style="text-align: right;">Page 260</p> <p>1 Q Okay. Did you tell them -- withdrawn.</p> <p>2 In terms of relying on what Engelhard</p> <p>3 said to you, did you rely upon the RJ Lee</p> <p>4 analysis of an Emtal talc sample?</p> <p>5 A Again, I don't know if that's one of the</p> <p>6 reports that they sent to me. It may have</p> <p>7 been. I don't know for sure which specific</p> <p>8 reports they sent to me over the years.</p> <p>9 Q And --</p> <p>10 A But obviously on this case they obviously sent</p> <p>11 something. But again, I think this case was</p> <p>12 different, because I don't think we dismissed</p> <p>13 them on this case or settled with them on this</p> <p>14 case. I think they got out on summary</p> <p>15 judgment.</p> <p>16 Q As a general principle, though, if Engelhard</p> <p>17 sent you materials, you would have reviewed and</p> <p>18 considered those materials in deciding whether</p> <p>19 to recommend dismissal or settlement, fair?</p> <p>20 A I would have considered those materials and the</p> <p>21 lack of any evidence that showed that there was</p> <p>22 asbestos in their talc.</p> <p>23 Q Okay. Let's show you Defendants' Exhibit 42.</p> <p>24 Defendants' Exhibit 42, previously used</p> <p>25 as Defendant Eastern Magnesia Talc Company's</p>
<p style="text-align: right;">Page 259</p> <p>1 Q Well, in terms of the reasons for settlement.</p> <p>2 Withdrawn.</p> <p>3 MR. ROTH: Objection.</p> <p>4 Q Withdrawn.</p> <p>5 In terms of your reasons for settlement,</p> <p>6 did you ever discuss with your client the</p> <p>7 Ashton affidavit, any client?</p> <p>8 A I don't know if I ever used the name "Ashton</p> <p>9 affidavit."</p> <p>10 Q Did you ever tell your clients in words or in</p> <p>11 substance that Engelhard has tested samples?</p> <p>12 A I believe my conversations with the clients</p> <p>13 would have been that I have no evidence that</p> <p>14 there was asbestos in the Eastern Magnesia</p> <p>15 Talc. That's what I would have told them about</p> <p>16 Eastern Magnesia Talc.</p> <p>17 Q I'm not asking what you would have told them,</p> <p>18 I'm asking what you remember specifically</p> <p>19 telling people.</p> <p>20 A Well, first of all --</p> <p>21 MR. ROTH: Objection to</p> <p>22 form.</p> <p>23 A -- I disagree with what you just said --</p> <p>24 MR. ROTH: Right.</p> <p>25 A -- but I did tell them that, yes.</p>	<p style="text-align: right;">Page 261</p> <p>1 motion for summary judgment.</p> <p>2 If you turn to the second page, the</p> <p>3 bottom of the second paragraph says: Plaintiff</p> <p>4 has not offered any evidence that she was ever</p> <p>5 exposed to a product manufactured or supplied</p> <p>6 by EMT.</p> <p>7 Do you see that?</p> <p>8 A Yes.</p> <p>9 Q What does that mean to you?</p> <p>10 A It's self-explanatory. The plaintiff was not</p> <p>11 exposed to a product manufactured or supplied</p> <p>12 by Eastern Magnesia Talc.</p> <p>13 Q And then the bottom of the third page, it says,</p> <p>14 "With regard to EMT, it has not been proven by</p> <p>15 plaintiff that such products were used by the</p> <p>16 plaintiff or her husband."</p> <p>17 Do you see that? The bottom of page 3.</p> <p>18 A I see that.</p> <p>19 Q And then if you turn to page 5, the first full</p> <p>20 paragraph, it says, "In the case at bar there</p> <p>21 is no such product identification."</p> <p>22 A Yes.</p> <p>23 Q Do you know what happened to this motion for</p> <p>24 summary judgment?</p> <p>25 A I thought it was granted.</p>

<p style="text-align: right;">Page 262</p> <p>1 Q Well, I think if you go up to the top, in that 2 box. 3 A Yeah, it was granted. 4 Q It was granted. 5 And did you oppose it? 6 A I assume we opposed it. I don't -- I don't 7 know for sure. 8 Q Okay. Was Jennifer Graham exposed to R.T. 9 Vanderbilt talc? 10 A I believe she offered and identified Vanderbilt 11 in her deposition. That's the best I can 12 recall. 13 Q Let me show you Defendants' Exhibit 47, 14 verification of plaintiffs' second amended 15 answers to interrogatory. And if you turn to 16 the Bates number in the bottom right-hand 17 corner, 2334, there's a reference to "Talc 18 manufactured by R.T. Vanderbilt and others." 19 Do you see that? 20 A Maybe you can point that out to -- oh, right 21 here. Okay. Talc -- yes. 22 Q And you were involved in these interrogatory 23 responses. In fact, I see you signed a couple 24 of them. Correct? You signed the proof of 25 service?</p>	<p style="text-align: right;">Page 264</p> <p>1 not contain asbestos as demonstrated by 2 scientific evidence, and as defined by state 3 and federal law." 4 Do you see that? 5 A Yes. 6 Q And you were opposing counsel in this case, 7 correct? 8 A I was plaintiff counsel in this case. 9 Q Plaintiffs' counsel. I'm sorry. You were 10 plaintiff's counsel. 11 And you know that there were testing 12 documents showing the presence of asbestos in 13 R.T. Vanderbilt's talc product, correct? 14 A I think. 15 Q I'll show you -- 16 A I'm not positive, but, you know. 17 Q Let me show you -- I'll show you your 18 opposition. 19 A Yeah, that would help. 20 Q But if -- let me get this to you so it's fair. 21 ----- 22 (Defendants' Exhibit 289 was marked.) 23 ----- 24 Q 289 is plaintiff's brief in opposition to 25 motion for summary judgment.</p>
<p style="text-align: right;">Page 263</p> <p>1 A Yes. 2 Q So for Jennifer Graham at least, in July of 3 2008, you believed you had product ID for R.T. 4 Vanderbilt? 5 A We believed it, yes. 6 Q And at this point, you also had knowledge as an 7 attorney, based on your experience, that R.T. 8 Vanderbilt had evidence of asbestos in their 9 talc, true? 10 A We had some evidence of asbestos, yes, in R.T. 11 Vanderbilt talc. I believe we did. 12 Q I don't want to bury the lead, so while we're 13 waiting, let me show you ... 14 All right. Let me show you what I'm 15 marking as Defendants' Exhibit 288. 16 ----- 17 (Defendants' Exhibit 288 was marked.) 18 ----- 19 Q 288 is defendant Vanderbilt -- R.T. 20 Vanderbilt's motion for summary judgment, 21 correct? 22 A Yes. 23 Q If you turn to page 5, it says, "Plaintiff, 24 however, cannot maintain her claim against R.T. 25 Vanderbilt because the product at issue does</p>	<p style="text-align: right;">Page 265</p> <p>1 What exhibit number is that? 289. I 2 think it's a duplicate of 104. 3 If you turn to page 19, Mr. Bevan. 4 A Okay. 5 Q You write, "The central argument that R.T. 6 Vanderbilt makes in the case sub judice is that 7 Vanderbilt's talc does not now, nor ever has, 8 contained asbestos. This argument is contrary 9 to tests that Vanderbilt has run on its talc, 10 other entities have run on the talc, and 11 specifically, the tests that were run on the 12 talc by the Ohio Division of Safety & Hygiene." 13 And then you continue. You cite some 14 NIOSH documents and some other testing 15 documents showing various tests of asbestos 16 levels of 2 to 3 percent in R.T. Vanderbilt's 17 talc. 18 Do you see that? 19 A Yes. 20 Q So could we agree that at least as of February 21 of 2009, Tom Bevan believed that there was 22 evidence of asbestos in R.T. Vanderbilt's talc? 23 A Yes. 24 Q Notwithstanding this evidence that you knew of, 25 R.T. Vanderbilt continued to take the position</p>

<p style="text-align: right;">Page 266</p> <p>1 that there was no asbestos in their talc, 2 correct? 3 A I believe they took that position. I'm looking 4 at their summary judgment motion. It looks 5 like they take that position. 6 Q In fact, if you turn to their summary judgment 7 motion on page 6, they say, "Although there was 8 some confusion in previous decades due to the 9 complexity of its composition, prominent 10 mineralogists who have analyzed R.T. 11 Vanderbilt's product have concluded that it 12 does not contain asbestos." 13 Do you see that? 14 A On page 6? 15 Q Of their motion. 16 A Okay. Yeah, there. I see it now. 17 Q So, by the way, when R.T. Vanderbilt was 18 telling Courts that they had no asbestos in 19 their talc, did you ever tell a Court that they 20 were engaged in some fraudulent scheme? 21 MR. McDERMOTT: Objection. 22 MR. ROTH: Objection. 23 A Not that I recall. 24 Q Well, you had documents showing tests of 25 asbestos in their talc, correct?</p>	<p style="text-align: right;">Page 268</p> <p>1 the proper identification of asbestos, and 2 prior to current law regulations, like the OSHA 3 1992 Final Ruling, which recognized these 4 advancements and ruled accordingly." 5 Do you see that? 6 A Yes. 7 Q "What may have been 'state of the art' over 30 8 years ago is scientifically ancient history 9 now, and cannot serve to defeat summary 10 judgment." 11 Do you see that? 12 A Yes. 13 Q I won't ask you about the second part, about 14 defeating summary judgment, but the first part, 15 it says, "What may have been 'state of the art' 16 30 years ago is scientifically ancient history 17 now." 18 Do you see that? 19 MR. ROTH: Objection. 20 A I see where they wrote that, yes. 21 Q Okay. What did you understand that to mean? 22 A I understand that to mean yeah, people found 23 asbestos in their talc but don't believe it, 24 believe what we're giving you now. 25 Q Well, as an experienced asbestos lawyer, did</p>
<p style="text-align: right;">Page 267</p> <p>1 MR. McDERMOTT: Objection. 2 A I believe documents that they produced, yes. 3 Q But they still told Courts there was no 4 asbestos in their talc, correct? 5 A But they explained why. 6 Q Okay. But you didn't think that was 7 fraudulent, for them to continue to take the 8 position there's no asbestos in their talc? 9 MR. McDERMOTT: Objection. 10 A Because they gave us the documents. 11 ----- 12 (Defendants' Exhibit 290 was marked.) 13 ----- 14 Q Let me show you Defendants' Exhibit 290. 15 Defendants' Exhibit 290 is the reply 16 brief. If you turn to page 4, the first full 17 paragraph, the second sentence reads, "Instead, 18 Plaintiff relies on reports --" sorry. I'll 19 wait for you. 20 Page 4 -- 21 A I got it. 22 Q -- of Defendants' Exhibit 290. 23 "plaintiff relies on reports, one over 30 24 years old, prepared prior to advancements in 25 the understanding of and methodology used in</p>	<p style="text-align: right;">Page 269</p> <p>1 you understand that since the 1970s until today 2 there have been developments in microscopy that 3 helps refine the testing of asbestos fibers? 4 MR. ROTH: Objection. 5 Foundation. 6 A I don't know that to be a fact. I believe that 7 defendants try to make arguments that newer 8 studies are more reliable than older studies, 9 but I don't know that that's a fact. 10 Q You've never looked into whether modern 11 science, in terms of microscopy, has advanced 12 over the last 30 years? 13 MR. ROTH: Objection to 14 the form and foundation. 15 MR. McDERMOTT: Objection. 16 A Well, you're asking me a different question 17 now. I mean, I assume modern science in terms 18 of microscopy has advanced -- 19 Q Withdrawn. 20 A -- over the years, but with respect to whether 21 something's asbestos or not, I'm not so sure 22 that there's a difference between now and 1977. 23 Q So I'm sorry we keep missing each other. When 24 I ask you a follow up question, I -- it is a 25 different question. I try not to ask the same</p>

<p style="text-align: right;">Page 270</p> <p>1 question over.</p> <p>2 MR. ROTH: Okay. I'll</p> <p>3 object to that statement.</p> <p>4 MR. ASSAF: Okay. All this</p> <p>5 objection saying it's a different question,</p> <p>6 well, of course it's a different question.</p> <p>7 MR. ROTH: Yeah. Okay.</p> <p>8 Q Okay. So you don't -- you don't recognize that</p> <p>9 there's been scientific developments in</p> <p>10 microscopy from 1975 until today?</p> <p>11 MR. ROTH: Objection.</p> <p>12 MR. McDERMOTT: Objection.</p> <p>13 A I didn't say that. I think I said that there</p> <p>14 has been developments in microscopy since the</p> <p>15 1970s.</p> <p>16 Q And do you also acknowledge that there has been</p> <p>17 developments in testing methods from 1975 until</p> <p>18 today for asbestos content?</p> <p>19 A I would say I'm not an expert on that, so I</p> <p>20 don't know that I could answer that question.</p> <p>21 Q Could you dispute that?</p> <p>22 MR. McDERMOTT: Objection.</p> <p>23 MR. ROTH: Objection.</p> <p>24 A I don't know. I would go to my -- you know, I</p> <p>25 would go to an expert and ask them whether or</p>	<p style="text-align: right;">Page 272</p> <p>1 it would? Even for somebody like you who is an</p> <p>2 accomplished plaintiffs lawyer in the asbestos</p> <p>3 bar, you would want to hear what an expert has</p> <p>4 to say before giving me a definitive answer on</p> <p>5 whether testing methods have changed over the</p> <p>6 last three decades?</p> <p>7 MR. McDERMOTT: Objection.</p> <p>8 Q Fair?</p> <p>9 MR. ROTH: Objection.</p> <p>10 MR. McDERMOTT: Form,</p> <p>11 foundation, and relevance.</p> <p>12 A That's probably fair.</p> <p>13 MR. ASSAF: Relevance a</p> <p>14 science thing.</p> <p>15 MR. McDERMOTT: I know what</p> <p>16 you're asking and it's not relevant to science.</p> <p>17 MR. ASSAF: Let's go off</p> <p>18 the record.</p> <p>19 THE VIDEOGRAPHER: Off the record.</p> <p>20 The time is 2:54.</p> <p>21 -----</p> <p>22 (Recess taken.)</p> <p>23 -----</p> <p>24 THE VIDEOGRAPHER: We're back on</p> <p>25 the record. The time is 3:09.</p>
<p style="text-align: right;">Page 271</p> <p>1 not they can dispute it. I'm not a scientist.</p> <p>2 Q So even as a trained lawyer in the asbestos</p> <p>3 field, you would find it necessary to hear what</p> <p>4 an expert has to say on microscopy and testing</p> <p>5 advances over the last 30 years, fair?</p> <p>6 MR. ROTH: Objection to</p> <p>7 form and foundation.</p> <p>8 MR. McDERMOTT: Objection.</p> <p>9 A I don't know how to answer that question, you</p> <p>10 know.</p> <p>11 Q Just answer yes or no.</p> <p>12 A I don't know.</p> <p>13 MR. McDERMOTT: Objection.</p> <p>14 A I can't answer that in a yes or no.</p> <p>15 Q Well, as a --</p> <p>16 A You would have to -- you're asking it</p> <p>17 generally. So you would have to be more</p> <p>18 specific.</p> <p>19 Q Well, I just asked you about advances in</p> <p>20 testing for asbestos, correct, and you said,</p> <p>21 "I'd have to ask an expert."</p> <p>22 A Yes.</p> <p>23 Q Right?</p> <p>24 A Yes.</p> <p>25 Q And I'm saying: Would you agree with me that</p>	<p style="text-align: right;">Page 273</p> <p>1 BY MR. ASSAF:</p> <p>2 Q Mr. Bevan, I'm showing you what's marked as</p> <p>3 Defendants' Exhibit 260. It's entitled</p> <p>4 "Judgment Entry."</p> <p>5 Do you recognize this?</p> <p>6 A I don't, not per se. I may have read it at the</p> <p>7 time.</p> <p>8 Q We just reviewed R.T. Vanderbilt's filings for</p> <p>9 partial summary judgment based on asbestos</p> <p>10 content before the break.</p> <p>11 A Yes.</p> <p>12 Q Here in the second paragraph, it says, "The</p> <p>13 main issue presented to the Court was whether</p> <p>14 Vanderbilt's talc product contained asbestos."</p> <p>15 Do you see that?</p> <p>16 A Yes.</p> <p>17 Q And then down further, it says, "As of August</p> <p>18 10, 2009, the Plaintiff has failed to submit</p> <p>19 expert reports on the asbestos content of</p> <p>20 Vanderbilt talc. At the hearing on the Motion</p> <p>21 to Dismiss, Plaintiff indicated they would rely</p> <p>22 on the reports of Dr. Kahn, Dr. Castleman, and</p> <p>23 Dr. Rao. The experts reports submitted do not</p> <p>24 provide any explanation for the changes in the</p> <p>25 studies from NIOSH, the Bureau of Mines and</p>

<p style="text-align: right;">Page 274</p> <p>1 OSHA. Plaintiffs' expert reports are</p> <p>2 inadequate and fail to meet the evidentiary</p> <p>3 burden required to establish causation.</p> <p>4 Accordingly, R.T. Vanderbilt's Motion for</p> <p>5 Summary Judgment is Granted."</p> <p>6 Do you see that?</p> <p>7 A Yes.</p> <p>8 Q Why did you not submit adequate expert reports?</p> <p>9 A We didn't think it was needed.</p> <p>10 Q Were you right?</p> <p>11 A Not according to Judge Spellacy.</p> <p>12 Q Did you appeal that?</p> <p>13 A I don't know that we appealed it.</p> <p>14 Q Did you settle then with R.T. Vanderbilt's</p> <p>15 talc - R.T. Vanderbilt on behalf of Ms. Graham</p> <p>16 or Ms. Graham's estate?</p> <p>17 A I don't know. It would be in the file if we</p> <p>18 did.</p> <p>19 Q You don't have any independent recollection of</p> <p>20 settlement negotiations?</p> <p>21 A No.</p> <p>22 Q Okay. Let me show you what's been marked as</p> <p>23 Defendants' Exhibit 261. It's a multiple page</p> <p>24 document entitled Emtal's Motion for Summary</p> <p>25 Judgment.</p>	<p style="text-align: right;">Page 276</p> <p>1 I'm sorry, Emtal's reply to your - regarding</p> <p>2 summary judgment?</p> <p>3 I think it's attached to two-sixty -</p> <p>4 sorry. There you go. 262.</p> <p>5 A I see it. I recall that.</p> <p>6 Q And then Exhibit 261, going back, this motion</p> <p>7 was granted by the judge, correct, of</p> <p>8 Ms. Graham?</p> <p>9 A Yeah, summary judgment was granted.</p> <p>10 Q Did you seek an appeal?</p> <p>11 A No.</p> <p>12 Q Why not?</p> <p>13 A We had no evidence that their talc contained</p> <p>14 asbestos at the time.</p> <p>15 Q After you talked to Mr. Placitella in 2009 or</p> <p>16 early 2010, did you seek to reopen the Graham</p> <p>17 case?</p> <p>18 A No. We filed this case and included Graham in</p> <p>19 this case.</p> <p>20 Q When you say "we filed"?</p> <p>21 A Well, they filed. We connected Donnette</p> <p>22 Wengerd with the Placitella firm and they filed</p> <p>23 the case.</p> <p>24 Q When Mr. Placitella called you, did you think</p> <p>25 about trying to reopen the Graham or Wengerd</p>
<p style="text-align: right;">Page 275</p> <p>1 Do you recognize this document?</p> <p>2 A Yes.</p> <p>3 Q This was Emtal's motion for summary judgment</p> <p>4 based on product ID?</p> <p>5 MR. ROTH: Objection to</p> <p>6 form and foundation.</p> <p>7 A Motion for summary judgment.</p> <p>8 Q Okay. And then plaintiffs responded to that</p> <p>9 motion for summary judgment, correct?</p> <p>10 A Correct.</p> <p>11 Q I'll show you Defendants' Exhibit 262.</p> <p>12 Did you work on this case for Ms. Graham?</p> <p>13 A Yeah, I was definitely involved and I think I</p> <p>14 was present at her deposition. It looks like</p> <p>15 this one was - response was filed by Jessica</p> <p>16 Bacon.</p> <p>17 Q And would you agree with me that you tried to</p> <p>18 establish product ID and you addressed the new</p> <p>19 Ohio HB 292 in this brief?</p> <p>20 A It looks like we submitted the C.P. Hall</p> <p>21 records, as well as Jennifer Graham's</p> <p>22 testimony. I thought I saw in there somewhere</p> <p>23 a reference to House Bill 292.</p> <p>24 Yeah.</p> <p>25 Q And then Defendants' 263 is plaintiffs - or</p>	<p style="text-align: right;">Page 277</p> <p>1 case since it was so close in time?</p> <p>2 A I don't recall if we - if I gave that any</p> <p>3 thought. That was what was suggested, and I</p> <p>4 went along with that.</p> <p>5 Q Did you talk to Mrs. - withdrawn.</p> <p>6 I have that Ms. Graham or Ms. Wengerd -</p> <p>7 I don't think they're one of the people you</p> <p>8 talked to. Sorry. I keep losing my list.</p> <p>9 A I don't recall if I talked Donnette Wengerd.</p> <p>10 I'm sure I didn't talk to Jennifer Graham,</p> <p>11 because she would have been long deceased.</p> <p>12 Q So with respect to Ms. Wengerd, though, after</p> <p>13 Mr. Placitella called you, why wouldn't you</p> <p>14 have called her?</p> <p>15 A I would have had somebody else call her.</p> <p>16 Q Ms.?</p> <p>17 A Probably Erin Clark.</p> <p>18 Q You don't know one way or the other?</p> <p>19 A I don't know. She would have been the only one</p> <p>20 I would have had called.</p> <p>21 Q But you just lost a case for Ms. Wengerd within</p> <p>22 the past year, correct, when Mr. Placitella</p> <p>23 called you?</p> <p>24 A I don't know if it's within the last year.</p> <p>25 Let's see. I'm assuming, you know, a year and</p>

<p style="text-align: right;">Page 278</p> <p>1 a half to -- or so.</p> <p>2 Q Okay.</p> <p>3 A I'm basing that on the R.T. Vanderbilt. I</p> <p>4 don't know when the -- I can't tell on this</p> <p>5 when the Eastern Magnesia Talc was granted.</p> <p>6 Q I think June 18, 2009.</p> <p>7 A So a year and a half later or so.</p> <p>8 Q And you didn't think to call Ms. Wengerd?</p> <p>9 A No, I didn't say that.</p> <p>10 MR. ROTH: I'm sorry.</p> <p>11 Objection to form.</p> <p>12 A I said that I would have had somebody call,</p> <p>13 most likely Erin Clark from the office, to</p> <p>14 connect Ms. Wengerd with the Placitella firm.</p> <p>15 Q What I'm trying to understand is why you,</p> <p>16 having just been involved in a case for her,</p> <p>17 wouldn't have picked up the phone and explained</p> <p>18 to her how this impacted her case.</p> <p>19 MR. McDERMOTT: Objection.</p> <p>20 MR. ROTH: Objection to</p> <p>21 form and foundation.</p> <p>22 A I had Erin Clark handle it.</p> <p>23 Q She's not a lawyer, is she?</p> <p>24 A No.</p> <p>25 Q And she didn't know any of the underlying facts</p>	<p style="text-align: right;">Page 280</p> <p>1 form and foundation.</p> <p>2 A I don't recall.</p> <p>3 Q Let me show you what's been marked as</p> <p>4 Defendants' Exhibit 264. It's a case on behalf</p> <p>5 of Kimberlee Williams and Charles Williams</p> <p>6 against a number of defendants.</p> <p>7 Do you recognize this?</p> <p>8 A You know, it's been many years since I've seen</p> <p>9 this, so I really can't. I don't really</p> <p>10 recognize it per se, no.</p> <p>11 Q At the time you filed this case, did you have a</p> <p>12 good faith factual belief that Ermtal's talc</p> <p>13 contained asbestos?</p> <p>14 A At the time that I filed this case, I had a</p> <p>15 good faith belief that Eastern Magnesia Talc</p> <p>16 was at Goodyear and that Mr. Williams would</p> <p>17 have been exposed to it, and at that time I</p> <p>18 wanted to explore whether or not I could prove</p> <p>19 that their talc contained asbestos. So I</p> <p>20 didn't have any evidence at that time that</p> <p>21 their talc contained asbestos, I had a hunch.</p> <p>22 Q Did you have a hunch about R.T. Vanderbilt?</p> <p>23 A I'm sure if they're in there I would have had a</p> <p>24 hunch about them, yes.</p> <p>25 Q Did you have a hunch about Vermont Talc?</p>
<p style="text-align: right;">Page 279</p> <p>1 regarding the Wengerd litigation, did she?</p> <p>2 A I -- I think that Erin Clark was with us during</p> <p>3 that case, yeah. So she was involved.</p> <p>4 Q So you think Ms. Clark does have knowledge of</p> <p>5 the underlying cases on behalf of some of the</p> <p>6 plaintiffs in this case?</p> <p>7 MR. ROTH: Objection.</p> <p>8 Form and foundation.</p> <p>9 A No, she's familiar with the Graham case and the</p> <p>10 Wengerd -- and Donnette Wengerd. And I had my</p> <p>11 paralegal call her to connect her with the</p> <p>12 Placitella firm. I'm not understanding what</p> <p>13 you don't understand about it. That's what</p> <p>14 happened.</p> <p>15 Q Did you discuss with Ms. Wengerd at any time,</p> <p>16 ever, your understanding of the facts of what</p> <p>17 happened in her mother's case?</p> <p>18 A I know I've talked to her in the last eight</p> <p>19 years. I can't recall the specifics of our</p> <p>20 conversation, but I have talked to her in the</p> <p>21 last eight years.</p> <p>22 Q Did you ever convey to her in words or in</p> <p>23 substance why you thought you lost her mother's</p> <p>24 case?</p> <p>25 MR. ROTH: Objection to</p>	<p style="text-align: right;">Page 281</p> <p>1 A If they're in there, yes.</p> <p>2 Q So I thought you told me earlier that Southern</p> <p>3 Talc did not really sell to the BFGoodrich or</p> <p>4 Ohio facilities?</p> <p>5 MR. ROTH: Objection.</p> <p>6 Foundation.</p> <p>7 A I don't think I said that. I think what I</p> <p>8 said -- no, that's not what I said.</p> <p>9 Q Okay. Did they sell to the Ohio facilities?</p> <p>10 A I think there's evidence that they made some</p> <p>11 sales to Ohio facilities, yes.</p> <p>12 Q Because you included them here as well --</p> <p>13 A Yes. Yes.</p> <p>14 Q -- as a defendant. You must have had a good</p> <p>15 faith factual belief to include them.</p> <p>16 MR. ROTH: Objection to</p> <p>17 form.</p> <p>18 A Again, it was a hunch that their talc may have</p> <p>19 contained asbestos.</p> <p>20 Q Let me show you what's been marked as</p> <p>21 Defendants' Exhibit 265.</p> <p>22 -----</p> <p>23 (Defendants' Exhibit 292 was marked.)</p> <p>24 -----</p> <p>25 Q And I'll also show you D Ex 292.</p>

<p style="text-align: right;">Page 282</p> <p>1 Okay?</p> <p>2 A Yep.</p> <p>3 Q Defendants' Exhibit 265 is an April 23, 1992</p> <p>4 letter.</p> <p>5 Do you recognize this letter?</p> <p>6 A I believe I recognize this letter.</p> <p>7 Q Okay. It was sent to Mr. Economus.</p> <p>8 A Yes.</p> <p>9 Q Now, is this the time when you were at the same</p> <p>10 office, or were you sharing cases, were you</p> <p>11 partners? How did it work at this point?</p> <p>12 MR. ROTH: Objection.</p> <p>13 A We were both working on asbestos cases</p> <p>14 together. I would essentially work under Dale.</p> <p>15 He was my mentor. I was not an employee, but I</p> <p>16 was, you know -- you know, I handled the</p> <p>17 asbestos cases and that's all I pretty much did</p> <p>18 at that point in time.</p> <p>19 Q Okay. Did you discuss this letter with</p> <p>20 Mr. Economus?</p> <p>21 A I recall -- yes, I believe so. I believe that</p> <p>22 he gave me this letter and said, you know,</p> <p>23 "What do you want to do with this?"</p> <p>24 Q And what did you say?</p> <p>25 A I looked at it. I think we eventually</p>	<p style="text-align: right;">Page 284</p> <p>1 A -- or total?</p> <p>2 Q From your office.</p> <p>3 A Five probably.</p> <p>4 Q Okay.</p> <p>5 A They list one, two, three. I would think there</p> <p>6 was a couple more in there. Probably five.</p> <p>7 Q So I've also handed you the Ashton affidavit,</p> <p>8 which is Exhibit -- Defendants' Exhibit 292.</p> <p>9 Do you recognize this, Mr. Bevan?</p> <p>10 A I believe this is an affidavit that was</p> <p>11 provided to us at some point.</p> <p>12 Q Before dismissing clients' cases against the</p> <p>13 defendant, if they had provided you an</p> <p>14 affidavit like Ashton, you would have reviewed</p> <p>15 it in some detail, correct?</p> <p>16 A I would have read it.</p> <p>17 Q Could you turn to paragraph 2 on page 2 of</p> <p>18 Defendants' Exhibit 292?</p> <p>19 It says, "From the 1940s through the</p> <p>20 1980s, talc mined in Vermont and specifically,</p> <p>21 the talc mined by Engelhard (and its</p> <p>22 predecessors) from the talc mine located in</p> <p>23 Johnson, Vermont has been considered to be talc</p> <p>24 free from contamination by asbestos. This</p> <p>25 conclusion is the result of numerous</p>
<p style="text-align: right;">Page 283</p> <p>1 dismissed them. I don't know when it was, but</p> <p>2 we eventually dismissed them.</p> <p>3 Q Do you have any -- other than the document</p> <p>4 itself, do you have any independent</p> <p>5 recollection of the facts surrounding this</p> <p>6 document?</p> <p>7 A Other than I had conversations with Scott</p> <p>8 Martin and Allen Joslyn. And there was</p> <p>9 documents that -- it looks like some of it is</p> <p>10 in here. That is my -- I guess that would be</p> <p>11 the extent of my recollection, was talking with</p> <p>12 Mr. Martin and Mr. Joslyn and reading their</p> <p>13 letters. This one's a nice one.</p> <p>14 Q And they provided you with some affidavits and</p> <p>15 expert reports, correct, as well as sales</p> <p>16 information? I'm sorry, a specification sheet.</p> <p>17 A Yeah, there was -- a specification sheet from</p> <p>18 Goodrich is in here.</p> <p>19 Q Do you know how many cases at this point were</p> <p>20 pending?</p> <p>21 MR. ROTH: Objection.</p> <p>22 Q For tire workers against a talc company.</p> <p>23 MR. McDERMOTT: Objection.</p> <p>24 A From my office --</p> <p>25 Q Yeah.</p>	<p style="text-align: right;">Page 285</p> <p>1 investigations, examinations and studies of the</p> <p>2 Johnson mine. The following paragraphs</p> <p>3 discuss, in chronological order, the studies</p> <p>4 and investigations."</p> <p>5 Do you see that?</p> <p>6 A Yeah.</p> <p>7 Q And then they lay out a number of</p> <p>8 investigations, correct?</p> <p>9 A Yes.</p> <p>10 Q And you would have reviewed what was set forth</p> <p>11 here, correct?</p> <p>12 A I believe I did.</p> <p>13 Q Is it your testimony that paragraphs -- all of</p> <p>14 the paragraphs following 2 set forth every</p> <p>15 study ever done on talc --</p> <p>16 MR. McDERMOTT: Objection.</p> <p>17 Q -- at the Johnson mine?</p> <p>18 A I assumed that --</p> <p>19 MR. McDERMOTT: Objection.</p> <p>20 A -- this was all the studies that they did of</p> <p>21 the Johnson mine at the time. That's what I</p> <p>22 believed.</p> <p>23 Q And you -- based upon your experience as a</p> <p>24 plaintiffs asbestos lawyer, it was your</p> <p>25 understanding that this would have encompassed</p>

<p style="text-align: right;">Page 286</p> <p>1 all of the testing ever done on the Johnson 2 mine for asbestos? 3 MR. McDERMOTT: Objection. 4 MR. ROTH: Objection. 5 A Oh, that was made clear to me. 6 Q Because you had worked with other companies, 7 BFGoodrich, where you were aware that they were 8 testing talc from suppliers, correct? 9 MR. McDERMOTT: Objection. 10 A I'm not sure if Goodrich or Goodyear tested the 11 talc themselves. Is that what you're asking 12 me? 13 Q Yeah. 14 A I'm not sure on that. 15 Q In your litigation -- we saw earlier today the 16 Southern Talc testing by BFGoodrich. Do you 17 remember that? 18 A Yeah, I don't recall -- 19 Q Exhibit 26. 20 A I don't recall if Goodrich did the test or if 21 they were relying on another test. I would 22 have to look at that document again. 23 Q But based upon your experience you knew that 24 the Ohio facilities were conducting tests of 25 talc for asbestos contact, correct?</p>	<p style="text-align: right;">Page 288</p> <p>1 the record. 2 BY MR. ASSAF: 3 Q I'm showing you Defendants' Exhibit 12 and 4 specifically Exhibit 26. 5 Does this refresh your recollection as to 6 whether at some point you knew that BFGoodrich 7 was conducting its own talc test to try to 8 determine whether talc had asbestos? 9 A It says, "Recent Raw Materials investigation 10 has found that all talc supplied by Southern 11 Talc Company contained significant amounts of 12 asbestos-like particles." 13 I don't know whether Goodrich did the 14 test or relied upon somebody else to do the 15 test, and I think that's what I told you. 16 Q Based upon your review, though, of company 17 documents and various asbestos and talc company 18 documents, did you have any understanding of 19 whether talc companies were conducting their 20 own internal tests of whether there was 21 asbestos in the talc? 22 A I recall a letter from Eastern Magnesia Talc to 23 Goodrich or Goodyear stating that their talc 24 did not contain any asbestos. 25 Q Well, could you tell me in terms of the Ashton</p>
<p style="text-align: right;">Page 287</p> <p>1 A Well, I knew that they were looking into 2 whether there was asbestos in their talc. 3 Q And you were -- 4 A Whether they were conducting the test 5 themselves or relying upon, for instance, 6 Eastern Magnesia to make that, I don't know. 7 Q You had no idea even that BFGoodrich was -- 8 withdrawn. 9 We'll get out the document from earlier 10 today. You don't remember telling a Court that 11 BFGoodrich had done testing on Southern Talc 12 and had found asbestos? 13 A I have to look at the document again as to 14 whether or not -- 15 Q All right. 16 A -- Goodrich did the test or whether they were 17 relying upon someone else to do the test. 18 MR. ASSAF: Let's go off 19 the record. 20 THE VIDEOGRAPHER: Off the record. 21 It is 3:28. 22 ----- 23 (Recess taken.) 24 ----- 25 THE VIDEOGRAPHER: We're back on</p>	<p style="text-align: right;">Page 289</p> <p>1 affidavit, how many internal Engelhard tests 2 are referenced in the Ashton affidavit? 3 A I don't know. 4 Q Do you see any in there? 5 A I don't know. There's a reference to 6 Dr. Chidester. I don't know whether that's an 7 internal Eastern Magnesia Talc person or 8 external. I don't know. I don't know who he 9 is. 10 Q Based upon all of your experience over the 11 years with talc litigation, would you have 12 expected to see some evidence of company 13 testing of talc? 14 MR. ROTH: Objection. 15 MR. McDERMOTT: Objection. 16 A I don't -- I don't know. I -- yeah, I don't 17 know how to answer that question. You know. 18 Q So let's go through Ashton. 19 Ashton identifies a 1949 study, correct, 20 paragraph 3? 21 A Yes. 22 Q 1951 U.S. Geological report -- 23 A Yes. 24 Q -- correct? 25 A 1962 Geological Survey professional</p>

<p style="text-align: right;">Page 290</p> <p>1 paper, correct?</p> <p>2 A Yes.</p> <p>3 Q A scientific paper from 1976, do you see that?</p> <p>4 Paragraph 6.</p> <p>5 A I see paragraph 6, yes.</p> <p>6 Q And in paragraph 7, there's reference, an</p> <p>7 independent testing laboratory of talc samples</p> <p>8 in 1982. Do you see that?</p> <p>9 A Yes.</p> <p>10 Q And then 1983, there's reference, a</p> <p>11 Dr. Chidester deposition testimony excerpt. Do</p> <p>12 you see that?</p> <p>13 A It says "sworn testimony." I didn't know if</p> <p>14 that was a deposition, but I think I see a</p> <p>15 deposition attached.</p> <p>16 Q If you turn to Bates numbers 4786 - 4787, I'm</p> <p>17 sorry, it's Westfall versus Whittaker, Windsor,</p> <p>18 Eastern Magnesia Talc Company.</p> <p>19 Do you see that?</p> <p>20 A Yes.</p> <p>21 Q And Vermont Talc.</p> <p>22 A Yeah.</p> <p>23 Q When you reviewed that, did you have any</p> <p>24 questions as to what that deposition related</p> <p>25 to?</p>	<p style="text-align: right;">Page 292</p> <p>1 up the other evidence, sure.</p> <p>2 Q Do you have any independent recollection of</p> <p>3 what you did with this affidavit in terms of</p> <p>4 communicating to your clients?</p> <p>5 A I had numerous conversations with defense</p> <p>6 counsel first, so at what point I talked with</p> <p>7 the clients, I don't recall.</p> <p>8 Charles Williams and I talked frequently</p> <p>9 and we, you know, talked frequently about his</p> <p>10 case. And so I'm certain I talked with him</p> <p>11 about, you know, who we dismissed or what we</p> <p>12 were doing in the case.</p> <p>13 The other ones, I just - I don't have</p> <p>14 any specific recollection. You know, Clay</p> <p>15 Compton and there was Loyd Brown I think was</p> <p>16 referenced in there. There was another woman</p> <p>17 named Mable Gonzalez I think. And there was</p> <p>18 somebody else and I don't recall right now.</p> <p>19 But Charles Williams and I had regular</p> <p>20 conversations.</p> <p>21 Q Do you have any specific recollection of what</p> <p>22 he said to you or what you said to him?</p> <p>23 A I just know that he had a significant talc</p> <p>24 exposure. I know that. I believe he was a</p> <p>25 mill man. The talc levels were very high in</p>
<p style="text-align: right;">Page 291</p> <p>1 A I don't recall reviewing this.</p> <p>2 Q Well, given the care and attention that you pay</p> <p>3 to these cases, you would have expected to</p> <p>4 review these materials, correct?</p> <p>5 MR. McDERMOTT: Objection.</p> <p>6 A I don't - you know, I see the - if all of</p> <p>7 this stuff was attached, I probably would have</p> <p>8 reviewed it, I just don't recall reviewing the</p> <p>9 deposition.</p> <p>10 Q Okay.</p> <p>11 A I can't tell from this letter if that was</p> <p>12 all - if all of these attachments were on here</p> <p>13 or it was just the affidavit. A through G.</p> <p>14 Q Well, let's try it this way, Mr. Bevan.</p> <p>15 If you were given an affidavit by</p> <p>16 opposing counsel that referenced exhibits and</p> <p>17 they weren't attached, my bet is that you would</p> <p>18 have asked for the exhibits.</p> <p>19 A I assume I would have.</p> <p>20 Q Okay. The 1982 test referenced here in</p> <p>21 paragraph 7 of two talc samples, did that have</p> <p>22 any weight in your recommendation to your</p> <p>23 clients to accept a settlement?</p> <p>24 A Yeah, I would - that would have, you know,</p> <p>25 carried some weight in the vacuum of not adding</p>	<p style="text-align: right;">Page 293</p> <p>1 his area. And, you know, we talked regularly.</p> <p>2 And specifically what I said about this</p> <p>3 affidavit, I honestly don't recall. I'm sure I</p> <p>4 would have said, "Hey, we have no evidence that</p> <p>5 this company's talc contains asbestos, so, you</p> <p>6 know, we got to let them out."</p> <p>7 Q You recall saying that, or you're sure you</p> <p>8 probably -</p> <p>9 A I'm sure I said it. You know, how exactly I</p> <p>10 worded it, I don't recall.</p> <p>11 Q And do you know what he said in response?</p> <p>12 A Oh, he would go along with whatever we</p> <p>13 recommended.</p> <p>14 Q Let me show you what's been marked as --</p> <p>15 withdrawn.</p> <p>16 After you received this letter, did you</p> <p>17 dismiss the cases immediately?</p> <p>18 A I don't think we dismissed them immediately.</p> <p>19 Q Let me show you Defendants' Exhibit 266.</p> <p>20 Defendants' 266 is a multiple page</p> <p>21 document dated February 11, 1993.</p> <p>22 Do you recognize this, Mr. Bevan?</p> <p>23 A Yes.</p> <p>24 Q Did you write this?</p> <p>25 A I believe I did.</p>

<p style="text-align: right;">Page 294</p> <p>1 Q Why did you write it?</p> <p>2 A My recollection was that I -- whether we had</p> <p>3 already dismissed them by then or not, but I</p> <p>4 came across a document, it was a study from --</p> <p>5 well, I think it says it here.</p> <p>6 Yeah, a 1950 correspondence from the</p> <p>7 state of Vermont health department that</p> <p>8 discussed a level of pneumoconiosis. And I</p> <p>9 don't know if it was this specific mine or if</p> <p>10 it was in talc mines in general in Vermont. It</p> <p>11 refers to Waterbury and Johnson.</p> <p>12 Q I'm going to show you what's been marked as</p> <p>13 Defendants' Exhibit 267.</p> <p>14 It's a February 22, 1993 response from</p> <p>15 Scott Martin regarding your study in which he</p> <p>16 says, "The company referenced in the 1950</p> <p>17 correspondence is not our client."</p> <p>18 Do you see that?</p> <p>19 A Yeah.</p> <p>20 Q Did you think that was fraudulent?</p> <p>21 MR. ROTH: Objection.</p> <p>22 A That it was not their client?</p> <p>23 Q Yeah.</p> <p>24 A I assume it was -- I don't know. Actually, I</p> <p>25 don't know at this point what to believe</p>	<p style="text-align: right;">Page 296</p> <p>1 studies," are they the studies referenced in</p> <p>2 the Ashton affidavit?</p> <p>3 MR. ROTH: Objection.</p> <p>4 A I'm sorry, was that a question?</p> <p>5 Q Yeah.</p> <p>6 A What was the question?</p> <p>7 Q When it says "The conclusion derived from all</p> <p>8 of these studies," does that mean to you the</p> <p>9 studies referenced in the Ashton affidavit?</p> <p>10 MR. McDERMOTT: Objection.</p> <p>11 MR. ROTH: Inter alia.</p> <p>12 A I don't know what he's referring to. You know,</p> <p>13 what I read is, you know, all of the studies</p> <p>14 show no asbestos in our mine.</p> <p>15 Q That's what the studies means to you?</p> <p>16 A Yeah. He didn't say, "Yeah, there was some</p> <p>17 studies that showed asbestos in our mines that</p> <p>18 we haven't given you, but, you know, we got</p> <p>19 these other studies that say it wasn't</p> <p>20 asbestos."</p> <p>21 Q So when you read the Ashton affidavit, you</p> <p>22 thought there were only five studies ever done,</p> <p>23 five testing documents?</p> <p>24 A Yeah. Or -- I didn't count how many he</p> <p>25 referenced, but the studies that Cahill Gordon</p>
<p style="text-align: right;">Page 295</p> <p>1 from --</p> <p>2 Q If Mr. Placitella told you it was fraudulent,</p> <p>3 would you believe it was fraudulent?</p> <p>4 MR. McDERMOTT: Objection.</p> <p>5 MR. ROTH: Objection.</p> <p>6 A Well, if he told me why.</p> <p>7 Q In the third paragraph, it says: In reaching</p> <p>8 your decision to dismiss Engelhard, your firm</p> <p>9 reviewed, inter alia, the Affidavit of William</p> <p>10 Ashton, which summarizes numerous</p> <p>11 investigations, examinations, and studies of</p> <p>12 the mine. The conclusion derived from all of</p> <p>13 these studies is that talc produced from the</p> <p>14 Johnson mine did not contain asbestos.</p> <p>15 Do you see that?</p> <p>16 A Yes.</p> <p>17 Q What does "inter alia" mean to you?</p> <p>18 A I have no idea.</p> <p>19 MR. McDERMOTT: Objection.</p> <p>20 A It's not a term I've ever used. I've seen it.</p> <p>21 I don't know what that means.</p> <p>22 Q Did you bother to look it up?</p> <p>23 A No.</p> <p>24 MR. ROTH: Objection.</p> <p>25 Q "The conclusion derived from all of these</p>	<p style="text-align: right;">Page 297</p> <p>1 referred to, I assume they referred to all of</p> <p>2 the studies from that mine.</p> <p>3 Q The RJ Lee test --</p> <p>4 A By the way, he says: The only analysis which</p> <p>5 we have not provided or previously forwarded to</p> <p>6 you is RJ Lee.</p> <p>7 So they gave me a RJ Lee, which is more</p> <p>8 indication that hey, we've given you everything</p> <p>9 there is, there's only one more here that you</p> <p>10 haven't gotten, here it is. We're still</p> <p>11 holding a few back that we're not going to give</p> <p>12 you because they're not good for us.</p> <p>13 Q Kind of like a --</p> <p>14 MR. ROTH: Kind of like</p> <p>15 nothing. Let's move on.</p> <p>16 Q If you have an examination showing no meso, you</p> <p>17 would provide that to a --</p> <p>18 MR. ROTH: Kind of totally</p> <p>19 like that --</p> <p>20 MR. McDERMOTT: Objection.</p> <p>21 MR. ROTH: -- totally not</p> <p>22 like that. Move to strike.</p> <p>23 A Yeah, I wouldn't put that in the same category</p> <p>24 in the least.</p> <p>25 Q Did you review the RJ Lee analysis?</p>

<p style="text-align: right;">Page 298</p> <p>1 A I assume, because I recall a RJ Lee. Whether I 2 reviewed it at this time, I probably did. I 3 know I've seen a RJ Lee analysis. 4 Q Do you have any reason to believe that it's not 5 trustworthy? 6 A Yes. 7 Q Why? 8 A Because when they did the test back in the 9 '70s, again, what Mr. Placitella told me, they 10 found asbestos. So I don't know what RJ Lee 11 looked at, how they looked at it, when - what 12 they did, but yeah, I don't put a lot of faith 13 in RJ Lee. 14 Q Your factual testimony today for this 15 proceeding is predicated a lot on believing 16 Mr. Placitella's rendition of the facts, fair? 17 MR. ROTH: Objection. 18 Foundation. 19 A Yeah. Hopefully at some point I'll get to look 20 at all of your documents and then I will create 21 some of my own foundation. 22 Q Defendants - is that when you're counsel or 23 when you're a witness? 24 MR. McDERMOTT: Objection. 25 MR. ROTH: Objection.</p>	<p style="text-align: right;">Page 300</p> <p>1 don't believe I talked to her and I believe 2 that Erin Clark is the one that contacted her 3 for me. 4 Q Let me show you Defendants' Exhibit 110. 5 It's an October 6, 1993 letter from you 6 to Mr. Martillotta. 7 Do you see that? 8 A Yes. 9 Q And there's a reference to Loyd Brown, who I 10 think you stopped and noted in the previous 11 letter correct? 12 A Yeah. He's the only Brown, yes. 13 Q And he worked at Goodyear Aerospace from 1947 14 to 1979? 15 A Yes. 16 Q And you believe he was entitled to compensation 17 from Emtal, even though he worked at Goodyear 18 Aerospace? 19 A As I sit here today, yes. 20 Q Because of what Mr. Placitella told you? 21 MR. ROTH: Objection. 22 Foundation. 23 A No, I think I - as I said before, I learned 24 sometime, it was definitely not in 1993, it was 25 sometime after that, that the vinyl division</p>
<p style="text-align: right;">Page 299</p> <p>1 Move to strike. 2 A I don't know the answer to that. Whatever I 3 am. 4 Q Well, are you serving as both? 5 MR. ROTH: Objection. 6 MR. McDERMOTT: Objection. 7 A I am counsel for these plaintiffs, whether I'm 8 a witness or not is up to you, I guess. 9 Q So you're counsel for Ms. Wengerd but you 10 still, from the time you heard Mr. Placitella's 11 rendition of the facts until today, have never 12 discussed the case with her? 13 MR. ROTH: Objection. 14 Foundation. 15 A No, I didn't say that. 16 Q When did you discuss the case with Ms. Wengerd? 17 A I told you I've talked to her in the last eight 18 years. 19 Q About the case? 20 A I'm sure we talked about kids and family and 21 mentioned this case. I don't know details. 22 Q What did you tell her about the case and what 23 did she tell you? 24 A I don't recall what we talked about of the 25 case. At the time when this all started, I</p>	<p style="text-align: right;">Page 301</p> <p>1 was a Goodyear Tire division at Goodyear 2 Aerospace, even though the employees were 3 Goodyear Aerospace employees. 4 Q And you're going to get me those documents? 5 A What documents? 6 Q You said you learned it. How did you learn it? 7 A From testimony from the workers there. 8 Q In your cases? 9 A Yes. 10 Q Okay. And, as I said, is there any court 11 pleading referencing that testimony? 12 A I'm sure there's court pleadings, yes. 13 Q In any talc case? 14 A I don't know about a talc case. Most likely a 15 supplier case against Goodyear Tire. 16 Q Could you turn to the second page? 17 You reference a Charles Williams with 18 lung cancer and asbestosis. 19 Do you see that? 20 A Yes. 21 Q And then you say, "From an exposure standpoint, 22 these ten cases are similar to the Colley and 23 Smith Cases. From a disease standpoint, I 24 believe these cases are more significant than 25 the Colley and Smith cases, as far as the</p>

<p style="text-align: right;">Page 302</p> <p>1 extent of damages and disability, as well as 2 the credibility of medical documentation." 3 Do you see that? 4 What do you mean by "credibility of 5 medical documentation"? 6 A I think we had -- we've got a meso in here, a 7 lung cancer. I think these individuals were 8 all treating for asbestosis, and that's how 9 they came to me. 10 If I recall correctly, Clay Compton had 11 a -- was hospitalized for a pleural effusion. 12 Mr. Duhart, I know Mable Gonzalez for sure, 13 Mr. Kessel, and Charles Williams were all being 14 treated by Dr. Fuenning, a local pulmonologist. 15 So they were -- they were -- these were 16 symptomatic people with asbestosis that were 17 treating. 18 Q When you say, "I believe these cases are more 19 significant than Colley and Smith, as far as 20 the extent of damages," what do you mean there? 21 A Because, again, these are people that are 22 treating. A lot of people with asbestosis 23 aren't treating, there's nothing being done 24 with them at the time, but these people were 25 actually treating with doctors for asbestosis.</p>	<p style="text-align: right;">Page 304</p> <p>1 You recommended 3,000, 2,000, 1,000, even 2 though you later learned that there was 3 asbestos in the talc of Southern Talc and R.T. 4 Vanderbilt, fair? 5 MR. ROTH: Objection. 6 A I later learned that, yes, I did. 7 Q And you continued to settle these cases on a 8 global basis for these sums of money after you 9 found out there was asbestos in R.T. Vanderbilt 10 and Southern Talc, fair? 11 MR. ROTH: Objection. 12 A Well, I -- 13 Q Fair? 14 A No. 15 MR. ROTH: Objection. 16 A I can -- no. As I explained before, the issue 17 with Southern Talc and R.T. Vanderbilt was -- 18 was the product ID, whether they sold and how 19 much they sold and when they sold it to the 20 places where my clients worked. That was the 21 problem that I had with those two entities. 22 Q Did you find out that R.T. Vanderbilt had 23 asbestos in the talc, yes or no? 24 A I already said yes, at some point -- 25 Q And did you find out that Southern Talc had</p>
<p style="text-align: right;">Page 303</p> <p>1 Q And then you make a settlement proposal, 2 correct? 3 A Yes. 4 Q Pardon me? 5 A Yes. 6 Q \$3,000 for mesos, \$2,000 for lung cancer, 7 \$1,000 for asbestosis and pleural cases. 8 And you say, "I will need a list of all 9 participating defendants prior to the 10 finalization of settlement." 11 Do you see that? 12 A Yes. 13 Q So you're asking Mr. Martillotta to provide you 14 with a list of all of the defendants who want 15 to join in on the settlement, correct? 16 A Yes. 17 Q And you thought that was full and fair, based 18 on what you knew at the time? 19 MR. ROTH: Objection. 20 A I thought what was full and fair? 21 Q The 3,000, 2,000, 1,000. 22 A Oh. Based on what I knew at the time, yeah. 23 Q And you did that even though you later learned 24 that there were asbestos defendant -- 25 withdrawn.</p>	<p style="text-align: right;">Page 305</p> <p>1 asbestos in the talc? 2 A I already answered your question. Are you 3 going to ask me something new? 4 Q And then you provided -- you still allowed them 5 to be part of a global settlement for \$3,000 6 and -- 7 MR. ROTH: Objection to 8 form. 9 Q -- \$2,000 and \$1,000, right? 10 MR. ROTH: Objection. 11 Foundation. 12 MR. McDERMOTT: Objection. 13 A I -- the 1,000 I recall. I'm not sure about 14 the two and the three, because I believe, for 15 instance, on Darnell, I believe they paid more. 16 Q Let me show you what's been marked as 17 Defendants' Exhibit 272. Or is that a 3? May 18 I see? 19 272. 20 Do you recognize -- 21 MR. McDERMOTT: Excuse me. I 22 don't have a copy. 23 MR. ASSAF: I'm sorry. 24 MR. ROTH: I know you ... 25 Q 272 is a document, July 18, 1996.</p>

<p style="text-align: right;">Page 306</p> <p>1 Do you recognize this document, 2 Mr. Bevan? 3 A It looks like a letter that I wrote. I don't 4 have a specific recollection of it, but ... 5 Q Okay. Let me show you what's been marked as 6 273. 7 273 is dated July 19, 1996 to Sam 8 Martillotta from Tom Bevan. It says, "The 9 following are our remaining filed and unfilled 10 cases against the talc defendants." And then 11 you list a number of defendants. 12 "At this time, we can settle all of these 13 cases for 280,000. Our demand includes 30,000 14 for the meso cases; 20,000 for lung cases; 15 10,000 for the asbestosis cases; and 50,000 for 16 the Jenkins case." 17 Do you see that? 18 A Yes. 19 Q What happened to these cases? 20 A I believe we settled these cases, but I'd have 21 to go to the individual files to see if we 22 settled them and when we settled them and what 23 we settled them for. 24 Q How much did you settle them for? 25 A I don't recall. I would have to go to the</p>	<p style="text-align: right;">Page 308</p> <p>1 MR. McDERMOTT: Objection. 2 MR. ROTH: Objection. 3 A I thought it was fair. 4 Q Repeatedly, even though you knew there was no 5 asbestos in their talc? 6 MR. ROTH: Objection. 7 A I didn't say I knew that. I didn't say that. 8 Q Well, you continued to sue Emtal when you 9 believed there was no asbestos in the talc and 10 you thought that was fine. 11 A I explained to you -- 12 MR. McDERMOTT: Objection. 13 A -- the basis for that suit. 14 Q That there was a tactical reason to do so, 15 correct? 16 MR. ROTH: Objection. 17 A That was what I explained to you. 18 Q Let me show you what's been marked as 19 Defendants' Exhibit 274. 20 "I have enclosed medical reports for our 21 clients that are part of the global talc 22 settlement." 23 Do you see that? 24 A Yes. 25 Q When -- withdrawn.</p>
<p style="text-align: right;">Page 307</p> <p>1 individual files to see what we settled them 2 for. 3 Q And these were group settlements against all 4 talc defendants? 5 A I don't know if it was against all talc 6 defendants, but it was against numerous talc 7 defendants, I believe. 8 Q And you expected talc defendants who had strong 9 product ID defenses and didn't have asbestos in 10 their talc to still participate in the 11 settlements if they wanted releases? 12 MR. ROTH: Objection. 13 A Did I expect it? It was a proposal. 14 Q Did you sue companies with -- withdrawn. 15 Did you sue talc defendants who did not 16 have asbestos in their talc, knowing what you 17 know today? 18 MR. ROTH: Objection. 19 Q Having litigated these cases for 30 years. 20 MR. ROTH: Objection. 21 MR. McDERMOTT: Objection. 22 A I don't recall if I've seen any evidence that 23 Georgia Talc had asbestos in their talc. 24 That's the best I can answer that question. 25 Q Do you think it was fair to sue Georgia Talc?</p>	<p style="text-align: right;">Page 309</p> <p>1 Did the talc defendants ask for medical 2 reports for the various plaintiffs? 3 A I presume. I, you know, I enclosed them, so -- 4 per my letter. 5 Q And if you had medical reports that show that 6 there was no meso, even though you were 7 claiming meso, would you have produced that? 8 MR. McDERMOTT: Objection. 9 MR. ROTH: Objection. 10 A Again, I would have produced what the civil 11 rule says I should produce. We're talking 12 about 1997. I'm not sure why -- that wasn't an 13 issue. 14 Q If you had a medical report showing that your 15 client did not have meso and was still claiming 16 meso, would you have provided that to the 17 defendants? 18 MR. McDERMOTT: Objection. 19 MR. ROTH: Objection. 20 A It depends on the circumstance. 21 Q Oh, at the bottom of the page, you say, "If any 22 of our clients do not wish to participate in 23 the settlement, we will withdraw as counsel on 24 their case." 25 Do you see that?</p>

<p style="text-align: right;">Page 310</p> <p>1 A Yes.</p> <p>2 Q What did you mean by that?</p> <p>3 A I meant that we were recommending the</p> <p>4 settlement to our clients and if our clients</p> <p>5 didn't want to follow our recommendation and</p> <p>6 advice, that they should probably seek</p> <p>7 different counsel.</p> <p>8 Q Let me show you what's been marked as</p> <p>9 Defendants' Exhibit 275.</p> <p>10 Is it fair to say that the talc</p> <p>11 defendants didn't find your suggestion that you</p> <p>12 might withdraw as acceptable?</p> <p>13 A Repeat the question.</p> <p>14 Q Is it fair to say that the talc defendants were</p> <p>15 not accepting your proposal that you might</p> <p>16 withdraw on behalf of some clients?</p> <p>17 MR. ROTH: Objection.</p> <p>18 A They were concerned with that. I think he says</p> <p>19 concerned.</p> <p>20 They said they were concerned.</p> <p>21 Q And it says, "This is a new condition to</p> <p>22 settlement and is not acceptable to those of</p> <p>23 our clients who are settling these cases in an</p> <p>24 effort to have the entire block of litigation</p> <p>25 behind them."</p>	<p style="text-align: right;">Page 312</p> <p>1 Q Let me show you what's been marked as</p> <p>2 Defendants' Exhibit 276.</p> <p>3 "Dear Sam:</p> <p>4 I have enclosed a list of recently filed</p> <p>5 asbestos cases.</p> <p>6 Several of these cases were included in</p> <p>7 our prior talc settlement. (Anderson, Bean,</p> <p>8 Gumm, Lemasters, Walker, Xenias) Many of these</p> <p>9 individuals were not rubber workers and had no</p> <p>10 talc exposure."</p> <p>11 Do you see that?</p> <p>12 A Yes.</p> <p>13 Q Rubber workers didn't have talc exposure?</p> <p>14 MR. ROTH: Objection.</p> <p>15 MR. McDERMOTT: Objection.</p> <p>16 A You're not reading it correctly.</p> <p>17 Q Okay. What does it mean?</p> <p>18 A It says, "Many of these individuals were not</p> <p>19 rubber workers and had no talc exposure."</p> <p>20 So, for instance, Mr. Xenias I believe</p> <p>21 was a B&W worker and perhaps an Atlantic</p> <p>22 Foundry worker. He was not in a site where</p> <p>23 there was talc.</p> <p>24 Mr. Walker I believe was a B&W worker.</p> <p>25 Mr. Anderson was definitely a Babcock &</p>
<p style="text-align: right;">Page 311</p> <p>1 Do you see that?</p> <p>2 A I saw it in there, yes.</p> <p>3 Q What did that mean to you?</p> <p>4 MR. McDERMOTT: Objection.</p> <p>5 A They wanted to settle them all.</p> <p>6 Q It was all or nothing, correct?</p> <p>7 A Well, that's what they said in that. Whether</p> <p>8 they meant it or not, I don't know.</p> <p>9 Q Well, it ended up being all or nothing,</p> <p>10 correct?</p> <p>11 A I believe my response to Mr. Martillotta was I</p> <p>12 don't think any of my clients are going to, you</p> <p>13 know, balk at this settlement. If they are,</p> <p>14 I'll let you know and we'll cross that bridge</p> <p>15 when we get there. But we never had to cross</p> <p>16 that bridge because the clients were all in</p> <p>17 agreement.</p> <p>18 Q You brought all of the asbestos plaintiffs,</p> <p>19 talc plaintiffs, as a group to all of the talc</p> <p>20 defendants who were settling and it was a</p> <p>21 global deal, fair?</p> <p>22 MR. ROTH: Objection.</p> <p>23 A I don't know if every single -- I had a list of</p> <p>24 cases. I think I list the number of cases in</p> <p>25 one of these here.</p>	<p style="text-align: right;">Page 313</p> <p>1 Wilcox worker.</p> <p>2 So I wasn't trying to settle a talc case</p> <p>3 with them, because they were at a plant where</p> <p>4 there was no talc.</p> <p>5 Q It says, "Please let me know if the talc</p> <p>6 companies are interested in selling these five</p> <p>7 rubber worker cases for \$1,000 per case."</p> <p>8 Correct?</p> <p>9 A Yes.</p> <p>10 Q That was your offer to him?</p> <p>11 A Yes.</p> <p>12 Q He didn't negotiate that, you came and offered</p> <p>13 that, correct?</p> <p>14 A Yes.</p> <p>15 Q Let me show you Defendants' Exhibit 277.</p> <p>16 It's a letter from Sam Martillotta, a</p> <p>17 draft letter or an unsigned letter, to Tom</p> <p>18 Bevan dated November 13, 2000.</p> <p>19 MR. ROTH: Mr. Assaf.</p> <p>20 MR. ASSAF: Yeah.</p> <p>21 MR. ROTH: The copy I have</p> <p>22 is signed.</p> <p>23 MR. ASSAF: Oh. Better</p> <p>24 yet.</p> <p>25 A My copy's signed as well.</p>

<p style="text-align: right;">Page 314</p> <p>1 Q Good.</p> <p>2 A You're looking at a different letter than this</p> <p>3 one. That's what you gave me.</p> <p>4 Q Ah. Sorry. I went ahead.</p> <p>5 Which exhibit are we? 2 --</p> <p>6 A 77.</p> <p>7 Q 277.</p> <p>8 November 4, 1997 from Sam Martillotta.</p> <p>9 "The talc counsel with whom you have settled</p> <p>10 are waiting for you to confirm that we will be</p> <p>11 receiving dismissals with prejudice."</p> <p>12 Was dismissal with prejudice an important</p> <p>13 part of the settlement agreement with the talc</p> <p>14 defendants?</p> <p>15 A Yes.</p> <p>16 Q Why was that?</p> <p>17 A Because they want finale. They want out.</p> <p>18 Q I'm going to show you Defendants' Exhibit 6.</p> <p>19 February 15, 2001. From Sam</p> <p>20 Martillotta -- to Sam Martillotta from you. It</p> <p>21 says, "As I indicated to you previously, most</p> <p>22 of these Plaintiffs did not work in facilities</p> <p>23 where they would have been exposed to talc."</p> <p>24 How did you know that?</p> <p>25 A Because they would have been at places like</p>	<p style="text-align: right;">Page 316</p> <p>1 website. You take a detailed review of the</p> <p>2 work history?</p> <p>3 A That would be one of the first things we would</p> <p>4 look at.</p> <p>5 MR. ROTH: Objection.</p> <p>6 Q All right. And it says, "The following</p> <p>7 Plaintiffs did work in facilities where they</p> <p>8 were exposed to talc." And there's Kathy</p> <p>9 Damell.</p> <p>10 It says, "Please let me know if the talc</p> <p>11 defendants would like to resolve these cases</p> <p>12 along with the plaintiffs from the Breckenridge</p> <p>13 complaint."</p> <p>14 Correct?</p> <p>15 A That's what it says.</p> <p>16 Q And you also provide medical records, correct?</p> <p>17 A It looks like we did, yes.</p> <p>18 Q And would you agree with me that you knew that</p> <p>19 the medical records were important to the</p> <p>20 settling defendants in order to show some sort</p> <p>21 of injury that they were going to pay</p> <p>22 compensation for?</p> <p>23 A They would want a diagnosis of an</p> <p>24 asbestos-related disease.</p> <p>25 Q Okay. I'm handing you Defendants' Exhibit 8.</p>
<p style="text-align: right;">Page 315</p> <p>1 Babcock & Wilcox or Atlantic Foundry. Let's</p> <p>2 see. 2001, we would have had a good number of</p> <p>3 U.S. Steel cases.</p> <p>4 Q Okay. USX, B&W.</p> <p>5 U.S. Steel?</p> <p>6 A Well, U.S. Steel, USX.</p> <p>7 Q Right.</p> <p>8 A Atlantic Foundry. Ford, Canton Forge.</p> <p>9 Probably Ford, Walton Hills.</p> <p>10 Q So plaintiffs who worked at USX, B&W, Atlantic</p> <p>11 Foundry, they should not be in the Bevan Ohio</p> <p>12 talc class as part of your affidavit, fair?</p> <p>13 MR. McDERMOTT: Objection.</p> <p>14 A They should not be included in the 2,600 or</p> <p>15 whatever that number was, yes.</p> <p>16 Q Okay.</p> <p>17 A They would not be included in there.</p> <p>18 Q All right.</p> <p>19 A Unless of course they worked also -- you know,</p> <p>20 if they worked at two places.</p> <p>21 Q And you kept track of where people worked,</p> <p>22 correct?</p> <p>23 A Yes.</p> <p>24 Q That was part of your -- I think your presuit</p> <p>25 investigation that you talk about on your</p>	<p style="text-align: right;">Page 317</p> <p>1 By the way, was Ware or Damell a Harshaw</p> <p>2 case?</p> <p>3 A What do you mean "was it a Harshaw case"?</p> <p>4 Q Was it a Harshaw premises case?</p> <p>5 A No.</p> <p>6 Q How do you know that?</p> <p>7 A Because I'm familiar with their work history.</p> <p>8 They did not work at Harshaw Chemical.</p> <p>9 Q So you don't think Ware worked at Harshaw?</p> <p>10 MR. ROTH: Objection.</p> <p>11 A I don't recall Ware working there. Maybe I'm</p> <p>12 wrong on that, I don't know. I'm certain that</p> <p>13 Damell didn't, because I was -- I was at her</p> <p>14 depositions and that did not come up.</p> <p>15 Q Would a Harshaw case be a talc case, in your</p> <p>16 mind?</p> <p>17 MR. McDERMOTT: Objection.</p> <p>18 Q Would they be part of the Bevan 2,653?</p> <p>19 A If a person worked their career at Harshaw</p> <p>20 Chemical, I don't believe they would be part of</p> <p>21 that 2,600.</p> <p>22 Q As far as you know, there was no talc at</p> <p>23 Harshaw chemical?</p> <p>24 A Not that I know of. I guess it depends on the</p> <p>25 Harshaw Chemical. The facility I was familiar</p>

<p style="text-align: right;">Page 318</p> <p>1 with was out in Lorain County, I believe. 2 Elyria. 3 Q I'm showing you Defendants' Exhibit 8. 4 March 25, 2001. And there's a list of 5 Breckenridge plaintiffs and Bevan 14 6 plaintiffs. 7 Do you see that? 8 A Yes. 9 Q Regarding the Bevan 14 plaintiffs, there's a 10 number of \$19,000. 11 Do you see that? 12 A I'm sorry. 13 Q On page 3. Sorry. 14 A I'm sorry. What are you asking me? 15 Q I'm saying there's a number that says \$19,000. 16 A Okay. Yes. Yes. 17 Q Do you know what that \$19,000 reflects? 18 A I really don't know. 19 Q Is it the 3,000, 2,000, 1,000 offer that you 20 had put together earlier? 21 MR. ROTH: I'm going to -- 22 can we go off the record? 23 A It doesn't add up to that, so ... 24 Q Okay. 25 MR. ROTH: Can we go off</p>	<p style="text-align: right;">Page 320</p> <p>1 an unfair question to him, he's never likely 2 seen this, except for at the deposition of the 3 custodian record. 4 MR. ASSAF: Okay. Fair 5 enough. Thank you. 6 ----- 7 (Recess taken.) 8 ----- 9 (Mr. Bevan now present.) 10 ----- 11 THE VIDEOGRAPHER: We're back on 12 the record. The time is 5:14 -- 4:14. 13 BY MR. ASSAF: 14 Q Let me show you what's been marked as 15 Defendants' Exhibit 154. It's a letter or a 16 memo of Claims Resolution Management 17 Corporation. 18 You're familiar with this, Mr. Bevan? 19 A I think I am. You know, I'm familiar with some 20 of these names on here. 21 Q Okay. Dr. Ballard? 22 A I've heard the name before. 23 Q I'm going to ask you -- I'm going to say the 24 name, you tell me if you're familiar with them 25 and whether you've used them for talc cases,</p>
<p style="text-align: right;">Page 319</p> <p>1 the record? 2 MR. ASSAF: Sure. 3 MR. ROTH: Mr. Bevan, can 4 you step out? 5 THE VIDEOGRAPHER: Off the record. 6 The time is 4:08. 7 ----- 8 (Mr. Bevan no longer present.) 9 ----- 10 MR. ROTH: This is a 11 document that came up in the original records 12 custodian deposition of Mr. Bevan, I believe, 13 and this did not come from the plaintiffs, it 14 did not come from Mr. Bevan in this form. And 15 I believe what we learned, and part of that may 16 have been with Mr. Farrell, is that the back 17 two pages, page 2 and 3, of this document were 18 the defense copy of this, which shows who's 19 paying what. 20 MR. ASSAF: Ah. Okay. 21 MR. ROTH: And so instead 22 of getting in a fight with you about -- 23 MR. ASSAF: Sure. Fair 24 enough. 25 MR. ROTH: -- why this is</p>	<p style="text-align: right;">Page 321</p> <p>1 okay? 2 A Okay. 3 Q Dr. Ballard? 4 A I know the name. I've never used him. 5 Q Dr. Cooper? 6 A Never heard the name. 7 Q Dr. Coulter? 8 A I don't know that name. 9 Q Dr. Andrew Harron? 10 A I'm not sure. 11 Q Dr. -- 12 MR. ROTH: Not sure? I'm 13 sorry. 14 Do you know the name? 15 A The name I recognize. Ray Harron had two sons 16 and one of his sons did exams for us one time, 17 but I don't know if that was Andrew Harron 18 or -- I think he had more than one son. 19 Q Dr. Ray Harron? 20 A I know him, yes. 21 Q And he's done talc work for you? 22 A Well -- 23 MR. ROTH: Objection. 24 A -- I would not say talc work. He's done B 25 reads for us.</p>

<p style="text-align: right;">Page 322</p> <p>1 Q Dr. Barry Levy?</p> <p>2 A I don't know him.</p> <p>3 Q Dr. George Martindale?</p> <p>4 A I've heard that name, but never have used him</p> <p>5 as an expert.</p> <p>6 Q And Dr. Allen Oaks?</p> <p>7 A I think maybe I've heard that name as well, but</p> <p>8 never used him as an expert.</p> <p>9 Q And it says in the beginning, "The reliability</p> <p>10 of reports prepared by the doctors and</p> <p>11 screening facilities listed below has been</p> <p>12 challenged and is the subject of federal grand</p> <p>13 jury and congressional investigations into</p> <p>14 alleged fraud."</p> <p>15 Do you see that?</p> <p>16 A Yes.</p> <p>17 Q "Based on the evidence presented in the silica</p> <p>18 MDL, the challenge is credible and compels</p> <p>19 suspension of the acceptance of these reports."</p> <p>20 Do you see that?</p> <p>21 A I see it.</p> <p>22 Q Did you stop using Dr. Harron because of the</p> <p>23 credible evidence regarding the fraud --</p> <p>24 MR. McDERMOTT: Objection.</p> <p>25 Q -- identified by the Claims Resolution</p>	<p style="text-align: right;">Page 324</p> <p>1 I gave you.</p> <p>2 MR. ASSAF: Off the record.</p> <p>3 THE VIDEOGRAPHER: Off the record.</p> <p>4 The time is 4:18.</p> <p>5 -----</p> <p>6 (Recess taken.)</p> <p>7 -----</p> <p>8 THE VIDEOGRAPHER: We're back on</p> <p>9 the record. The time is 4:35.</p> <p>10 BY MR. ASSAF:</p> <p>11 Q At some point, Mr. Bevan, were you asked to</p> <p>12 help compile a list of 30 files that would be</p> <p>13 provided to the defendants to review as part of</p> <p>14 discovery?</p> <p>15 MR. McDERMOTT: Objection.</p> <p>16 MR. ROTH: That's not how</p> <p>17 it worked.</p> <p>18 MR. ASSAF: I'm sorry?</p> <p>19 MR. ROTH: Object to the</p> <p>20 form and foundation.</p> <p>21 MR. ASSAF: Go ahead.</p> <p>22 MR. ROTH: The Court</p> <p>23 directed that we pull out -- we randomly pull</p> <p>24 out 30 files from a list of cases.</p> <p>25 MR. ASSAF: Yeah, get the</p>
<p style="text-align: right;">Page 323</p> <p>1 Management Corporation?</p> <p>2 MR. McDERMOTT: Objection.</p> <p>3 MR. ROTH: Objection.</p> <p>4 A I probably stopped using Dr. Harron before this</p> <p>5 letter.</p> <p>6 Q Okay. Let me show you what's been marked as</p> <p>7 Defendants' Exhibit 287, a composite exhibit,</p> <p>8 Mr. Bevan.</p> <p>9 And I'm sorry, I apologize in advance for</p> <p>10 how small of writing it is, but I was trying to</p> <p>11 get it all on one page. It's from your</p> <p>12 database.</p> <p>13 As you recall from your custodian</p> <p>14 deposition and the discovery in this case, 30</p> <p>15 files were selected from the talc cases for the</p> <p>16 defendants to review, correct?</p> <p>17 A No.</p> <p>18 Q Oh.</p> <p>19 A 30 files reviewed from my cases. You added</p> <p>20 "talc" to it.</p> <p>21 Q Oh. It was just any case?</p> <p>22 A It was just any -- yeah, it was any case.</p> <p>23 Q So we got files -- we got files from any of</p> <p>24 your asbestos cases from the last 25 years?</p> <p>25 A I was given a list of 30 cases, and that's what</p>	<p style="text-align: right;">Page 325</p> <p>1 email out.</p> <p>2 MR. ROTH: Is that my</p> <p>3 email to Peter?</p> <p>4 MR. ASSAF: Yeah.</p> <p>5 BY MR. ASSAF:</p> <p>6 Q At some point do you understand that the Court</p> <p>7 ordered that there be -- that Excel's</p> <p>8 randomizing function be used to identify 30</p> <p>9 files of absent putative class members for the</p> <p>10 Bevan office to pull?</p> <p>11 A I was given a list of 30 files and we printed</p> <p>12 the files out.</p> <p>13 Q Okay. And did you understand that they were</p> <p>14 putative class members?</p> <p>15 A I don't know exactly what that means, but I was</p> <p>16 just given a list of 30, and that's what we</p> <p>17 did.</p> <p>18 Q Okay. You didn't believe that they had</p> <p>19 anything -- withdrawn.</p> <p>20 Were the 30 files encompassed within the</p> <p>21 2,653 number?</p> <p>22 A No. I think they were encompassed within I</p> <p>23 think my entire client database, but I'm not</p> <p>24 sure.</p> <p>25 Q Okay. Well, let's try this. I'm putting 287</p>

<p style="text-align: right;">Page 326</p> <p>1 in front of you.</p> <p>2 And you were the one who worked with your</p> <p>3 lawyers to provide that information, correct?</p> <p>4 MR. McDERMOTT: Objection.</p> <p>5 Q You were the person at the Bevan Firm who was</p> <p>6 the contact for Mr. Little and others and</p> <p>7 Mr. Roth to provide that information?</p> <p>8 A Yes. And I was given a list. I gave that to</p> <p>9 my paralegal, Erin Clark, to print out those</p> <p>10 files, and then we got them to counsel.</p> <p>11 Whether she scanned them - I don't know how</p> <p>12 she did it.</p> <p>13 Q All right. Let's start with -- so I put</p> <p>14 together what I called the Bevan 30,</p> <p>15 information from the Bevan database. So 30</p> <p>16 randomized files. And I tried to put it all in</p> <p>17 one sheet, but not with every field, because if</p> <p>18 it were every field, it would go on forever.</p> <p>19 Military, history, et cetera.</p> <p>20 So this is, though, an extract from the</p> <p>21 files. I haven't changed the data, this is</p> <p>22 what I had, but I did take out certain fields</p> <p>23 to get it all on to one page, okay?</p> <p>24 A Okay.</p> <p>25 Q All right. Anthony Bennett. Primary employer,</p>	<p style="text-align: right;">Page 328</p> <p>1 A I don't recall that at all, no.</p> <p>2 Q All right. So was Mr. Bennett a talc case?</p> <p>3 A Based on what you've printed out here, he</p> <p>4 worked at Ford, Canton. That would be the</p> <p>5 Ford, Canton Forge plant in Canton, Ohio.</p> <p>6 What I don't have is any secondary or</p> <p>7 other places. So if he didn't work at another</p> <p>8 place where there would be talc exposure, he</p> <p>9 would not be one of those 2,600 some cases that</p> <p>10 we consider for my affidavit of being the talc</p> <p>11 cases.</p> <p>12 Q Okay. McKenzie Benson worked at B&W with an</p> <p>13 asbestosis of 1/0 and a secondary read by</p> <p>14 Dr. Harron. Is that a talc case?</p> <p>15 A No. That would be a Babcock & Wilcox. Same</p> <p>16 answer as the Ford, Canton. If he didn't work</p> <p>17 at one of the rubber plants, then I would say</p> <p>18 that would not be a talc case.</p> <p>19 Q Samuel Biggers. Talc case?</p> <p>20 A Yes. He worked at Firestone.</p> <p>21 Q And that's another asbestos 1/0?</p> <p>22 A Yes.</p> <p>23 Q There's no secondary diagnosis for Mr. Biggers?</p> <p>24 A No.</p> <p>25 Q And he stopped working at Firestone in 1973.</p>
<p style="text-align: right;">Page 327</p> <p>1 Ford. And it says, "asbestosis 1/0."</p> <p>2 What does, by the way, "asbestosis 1/0"</p> <p>3 mean?</p> <p>4 A That's the profusion reading on the B read. So</p> <p>5 he was given a profusion of 1/0, along with</p> <p>6 pleural disease.</p> <p>7 Q Would you agree with me, in terms of valuing</p> <p>8 cases, the 1/0 is the weakest of the reads in</p> <p>9 terms of valuing a case?</p> <p>10 MR. ROTH: Objection.</p> <p>11 MR. McDERMOTT: Objection.</p> <p>12 A I don't think that bears much on the value of</p> <p>13 the case, the 1/0, no. It is probably the</p> <p>14 lowest profusion that I would consider</p> <p>15 asbestosis, but I don't think that that is an</p> <p>16 indication of the value of the case.</p> <p>17 Q You understand that some 1/0s are viewed by</p> <p>18 Courts as actually not being asbestosis cases?</p> <p>19 MR. McDERMOTT: Objection.</p> <p>20 Q Fair?</p> <p>21 A I've not -- I've never come across that.</p> <p>22 Q Is that one of the reasons Dr. Harron got in</p> <p>23 trouble?</p> <p>24 MR. McDERMOTT: Objection.</p> <p>25 MR. ROTH: Objection.</p>	<p style="text-align: right;">Page 329</p> <p>1 Do you see that?</p> <p>2 A Yes.</p> <p>3 Q If there was no asbestos in the talc up to</p> <p>4 1973, would he then be a proper plaintiff for</p> <p>5 recovery?</p> <p>6 MR. McDERMOTT: Objection.</p> <p>7 MR. ROTH: Objection.</p> <p>8 A Are you asking me a hypothetical?</p> <p>9 Q Yeah.</p> <p>10 A So hypothetically if there is no asbestos in</p> <p>11 the talc, then I would not be able to make an</p> <p>12 asbestosis claim on his behalf against a talc</p> <p>13 defendant.</p> <p>14 Q Okay. For Larry Briggs, Firestone plant,</p> <p>15 asbestosis 1/2. Is that a talc case?</p> <p>16 A Yes.</p> <p>17 Q And that's a talc settlement case, according to</p> <p>18 your records, too?</p> <p>19 A It says "settled" there, yes.</p> <p>20 Q Settled.</p> <p>21 A Same with the prior one too, I believe.</p> <p>22 Q By the way, do you view your database as</p> <p>23 reliable, in terms of the information in it?</p> <p>24 MR. McDERMOTT: Objection.</p> <p>25 A It's fairly reliable to get -- for some of the</p>

<p style="text-align: right;">Page 330</p> <p>1 older cases, like I testified in the last 2 deposition, for instance, say on the Williams 3 case, we didn't have this database at the time 4 of the Williams case, so I would go to the file 5 to try to find information. 6 Q Melvin Brown, Ford, U.S. Steel, General Motors. 7 Talc case? 8 A Same as the other -- the Ford and Babcock & 9 Wilcox. Based solely on those employers, no. 10 Q Daniel Cheezan? 11 A Same answer. 12 Q Not a talc case? 13 MR. ROTH: Objection. 14 A Again assuming there was no other employment 15 that brought him into contact with talc. 16 Q Clay Compton is listed there, but there's 17 actually no information in the database? 18 A Yeah, I think it's because that case was so 19 old. It long predated the database. He was a 20 Goodrich worker. It would be a talc case. 21 Q Would be a talc case? 22 A Yes. 23 Q Do you know what his reads were? 24 A I believe he was a pleural effusion. Pleural 25 disease case. I think he was hospitalized for</p>	<p style="text-align: right;">Page 332</p> <p>1 that. 2 Q Would Thew Shovel be a talc case? 3 A I'm not sure on that. 4 Q So if there was no asbestos in the talc up 5 until 1964, he wouldn't be a proper plaintiff? 6 MR. ROTH: Objection. 7 A Same answer. If there's no asbestos in talc, 8 in any talc defendant's product, then, you 9 know, we would be, where I was 20 years ago, 10 not able to prove a case. 11 Q Jimmie Gasper? 12 A I believe he was a Goodyear. Yes. 13 Q So that's a talc case? 14 A Yes. 15 Q Roosevelt Harris. Harshaw Chemical, primary 16 employer. 17 A I don't believe that would be a talc case, 18 unless that was some other employment that's 19 not listed on here. 20 Q Okay. Lester Henline? 21 A Again I don't believe that was a talc case 22 because he worked at Babcock & Wilcox, unless 23 there was some other place of employment not 24 listed. 25 Q And why is he listed as referring attorney,</p>
<p style="text-align: right;">Page 331</p> <p>1 his pleural effusion, in fact. 2 Q Ray Cottrill. Goodyear Tire & Rubber, 3 asbestosis 1/0, and his doctor is Ray Harron. 4 A Yes, that would be a talc. 5 Q Angel or Angel Cuevas. It looks like there's 6 no information there. 7 A I'm not -- I'm not sure what that case 8 involves. 9 Q So Beth told me some of these, because I guess 10 you produced two separate databases, they're 11 going to be on the second page. So we'll get 12 to Mr. Cuevas. 13 A Okay. 14 Q Okay. Clyde Curry looks to be the third page. 15 Ford Motor Company, asbestosis 1/0, Dr. Ray 16 Harron. 17 A Yeah. Again assuming no other -- no other 18 exposures, no other employment where there was 19 talc present, then that would not be a talc 20 case. 21 Q Donald, Johnny, which I think is the second 22 page, Firestone/Thew Shovel. Firestone to 1964 23 and then Thew Shovel '64 to '78. Dr. Ray 24 Harron, asbestosis 1/0. 25 A I believe a talc case, but I'm not sure on</p>	<p style="text-align: right;">Page 333</p> <p>1 TWLP2? 2 A We used that, and I think I explained that in 3 the last deposition, how to -- when we were 4 trying to keep track of clients, groups of 5 clients. And the TWLP1s were actually the 6 cases that came originally from the National 7 Tire Workers Litigation Project. 8 And then when I started in 1991 and 9 started to sign up a handful of cases and file 10 those cases, we called those TWLP2s. So they 11 would be Charles Williams, Clay Compton, the 12 Clark case, Nardella, whatever this one was -- 13 oh, Henline, yes. And there was maybe 10 or 15 14 of those TWLP2s. 15 And then cases that I picked up in '95, 16 '96 were TWLP3s. And then I just stopped using 17 that altogether. It didn't serve its purpose 18 anymore. 19 Q The referring attorney, though, referenced how 20 much of a contingency or referral fee an 21 attorney would get, correct? 22 A Well, in some cases, yes. 23 Q Well, in Clair Wilkerson's case, it's "Vince 24 40%." 25 Do you see that?</p>

<p style="text-align: right;">Page 334</p> <p>1 A Yes. Uh-huh. 2 Q Who's Vince? 3 A He's an attorney that referred us the Wilkerson 4 case. 5 Q Okay. And so there were no referral fees 6 associated with TWLP2 or 3? 7 A No. No. 8 Q Hoffman, U.S. Steel? 9 A Same answer. Unless there was some other 10 exposure, not a talc case. 11 Q Marvin Johnson, U.S. Steel? 12 A Same answer. 13 Q Tom Knight, Sunoco/U.S. Steel? 14 A Same answer. 15 Q Not a talc case? 16 A Unless there was some other exposure that's not 17 listed there. 18 Q Issa Michael. 19 A Same answer on that one. It says Republic 20 Steel/Ford Motor Company. 21 Q Samuel Monty. It looks like Firestone. 22 A Firestone. He would be a talc case. 23 Q A 1/0 and Dr. Harron. 24 A I think it's a 1/1 and 1/0. 25 Q Okay.</p>	<p style="text-align: right;">Page 336</p> <p>1 about. 2 Paul Sestili, U.S. Steel? 3 A U.S. Steel would be the same answer. If, you 4 know, there was no other place of employment 5 that would have put him by talc, that would not 6 be a talc case. 7 Q Not a talc case. 8 Donald Sparks? 9 A Same answer. 10 Q Not a talc case. 11 Richard Turpin? 12 A Same answer. 13 Q Not a talc case. 14 Gary Venus? 15 A Same answer as Mr. Rinehart. 16 Q It would be a talc case if your vinyl theory is 17 correct? 18 MR. ROTH: Objection. 19 A My vinyl theory's correct, I know it. 20 MR. McDERMOTT: Objection. 21 Q Eugene Villers? 22 A That's a talc case. 23 Q General Tire and Mohawk Rubber? 24 A Yes. 25 Q Donald Wagner?</p>
<p style="text-align: right;">Page 335</p> <p>1 MR. ROTH: Which one was 2 that, I'm sorry? Monty? 3 MR. ASSAF: Monty. 4 Q Joseph Nebgen? 5 MR. ROTH: Hold on. I 6 object to the Harron question. 7 Q Joseph Nebgen? 8 A He's a Firestone. It would be a talc case. 9 Q Richard Rinehart? 10 A That would be a Goodyear Aerospace. So that 11 would be a talc case. 12 Q Under your theory of vinyl? 13 A Yes. 14 Q If the vinyl theory isn't proper, then it's not 15 a talc case? 16 MR. ROTH: Objection. 17 MR. McDERMOTT: Objection. 18 A It's proper. I know it. So it's proper. 19 Q And you have those documents, you're going to 20 get them to us? 21 A I think I indicated that it was testimony from 22 the workers there is what I indicated. 23 Q You'll get that to me? 24 A I'm not going to dig through depositions. 25 Q All right. Richard Rinehart I think we talked</p>	<p style="text-align: right;">Page 337</p> <p>1 A That's a talc case. 2 Q Charles Whitaker? 3 A That would be a talc case. 4 Q Clair Wilkerson? 5 A That would be, again, if there was no other 6 employment other than what's listed there, then 7 that would not be a talc case. 8 Q And Michael Wittreich? 9 A Same answer. 10 Q If you'd turn to the second page. 11 I think we did Melvin Brown. Ford, U.S. 12 Steel, General Motors. Talc case? 13 A Again, if those were the only places that he 14 worked, then no. 15 Q Okay. Angel, Angel Cuevas? 16 A Same answer. 17 Q Not a talc case? 18 A Not a talc case, unless there was other 19 exposures not listed there. 20 Q Donald Johnny? 21 A I think we covered that one. 22 Q And Michael Issa? 23 MR. McDERMOTT: We covered that 24 one. 25 A I think we covered that one too.</p>

<p style="text-align: right;">Page 338</p> <p>1 Q If you turn to Clyde Curry, I think we covered 2 that one. 3 And then from your database, Marilyn 4 Holley, BFGoodrich. That's a talc case, 5 correct? 6 A Yes. 7 Q And there's an indication there that that was 8 settled, correct? 9 A Yes. 10 Q Ralph Ware? 11 A That is a talc case. 12 Q And was it settled or not settled? 13 A I don't recall on that one. That was the one I 14 told you I just didn't recall. I would have to 15 look in the file to see if there was a 16 settlement in there. 17 Q So if your database indicates no settlement, 18 how do you know? You would have to go to the 19 file? 20 A I would have to go to the file. 21 Q You would have to pull all of these files? 22 A Yeah. You know, yeah, for -- 23 Q So for every -- of the 2,653, in order to 24 verify the information, you would have to go to 25 the files?</p>	<p style="text-align: right;">Page 340</p> <p>1 one, correct? 2 A Yes. 3 Q So for Ralph Ware, there's no indication, even 4 though in the complaint it says that it 5 settled? 6 A Oh, it says -- yeah. If it says that it 7 settled, yeah. There's no indication in the 8 database. 9 Q So what would be the controlling document, 10 Mr. Placitella's rendition of the facts in the 11 complaint or the database? 12 MR. ROTH: Objection. 13 A The file would be the controlling document. I 14 would go to the file to determine that. 15 Q Williams/Clark, Nancy Pease, there's no 16 indication of settlement. 17 A Yeah. That one, I'm fairly certain that was 18 settled. That's just that case is so old. It 19 was before this database, so it's not in there. 20 Q And Mr. Placitella in his complaint says that 21 it was settled as well. 22 So in terms of understanding whether the 23 case was settled and on what terms, the place 24 to go would be Mr. Placitella's rendition of 25 the facts or the complaint or the database or</p>
<p style="text-align: right;">Page 339</p> <p>1 A Well, I think on a fair number of those it 2 would indicate whether there was a settlement 3 or not. And so I would not say in all of them, 4 no, but if there's a blank, if it's not listed 5 in there, I'd probably want to go to the file 6 just to make sure. 7 But most of those 2,600 are the newer 8 cases when this database was in place. When we 9 were looking at these cases, a number of these 10 are very old ones. 11 Q If the 2,653 has the asbestosis read of 1/0 or 12 1/1, where -- would that information be in the 13 file to confirm that? 14 A The B read should be in the file, yes. 15 Q And in terms of the doctor, if it's Dr. Ray 16 Harron or for others, would that also be in the 17 file? 18 A Yeah, the medical should be in the file. 19 Q And again, the settlement, to the extent 20 there's settlement information with talc, the 21 way to confirm that would be to go to the 22 files? 23 A Yes. 24 Q Because here, out of the five named plaintiffs, 25 it only has an indication of settlement for</p>	<p style="text-align: right;">Page 341</p> <p>1 the file? Which would have the most reliable 2 information? 3 MR. ROTH: Objection. 4 MR. McDERMOTT: Objection. 5 A Well, I'm going on personal recollection that 6 that case settled with the talc defendants. So 7 I know that to be a fact. If I wanted to see 8 the amounts and any documentation that we have, 9 I would go to the file and try to find it in 10 the file. 11 Q I'm just trying to figure out if I'm looking at 12 the database or somebody's looking at it trying 13 to figure out is this reliable in terms of 14 trying to figure out the data, especially on 15 the settlement, it is much more reliable to go 16 to the files to figure out whether there's a 17 settlement, fair? 18 A Well, if it says "settled," then it was 19 settled. So if it's a blank, then to be sure, 20 I would go to the file. 21 Now, there's instances where I wouldn't 22 bother going to the file. For instance, if it 23 was a, you know, U.S. Steel person and it's 24 blank, you know, I know that we didn't settle 25 with the talc defendants and I wouldn't -- it</p>

<p style="text-align: right;">Page 342</p> <p>1 would be a waste of an effort to go to the file</p> <p>2 to see if there was a settlement to talc.</p> <p>3 Q Presumably the 2,653 should not include the</p> <p>4 U.S. Steel people, or does it?</p> <p>5 A It does not -- no, it should not include the</p> <p>6 U.S. Steel people.</p> <p>7 Q What happened, did -- if they sue Emtal for</p> <p>8 some reason, would they be in the 2,653?</p> <p>9 A No.</p> <p>10 Q It's only talc cases?</p> <p>11 A Yes.</p> <p>12 Q Or is it by defendant?</p> <p>13 A It's only talc cases. So it would not include</p> <p>14 the U.S. Steel cases.</p> <p>15 Q Okay. So if somebody sued Engelhard as a</p> <p>16 successor to Harshaw, would that be in the</p> <p>17 2,653 or not in the 2,653?</p> <p>18 A Well, if they sued Engelhard as a successor to</p> <p>19 Harshaw based on a premises liability claim</p> <p>20 against Harshaw, well, one, it wouldn't be in</p> <p>21 the 2,653. That would not be.</p> <p>22 Q What did you search for to generate the 2,653?</p> <p>23 A Whether we had settled with the talc</p> <p>24 defendants, whether they worked at a site where</p> <p>25 talc would most likely be, such as the rubber</p>	<p style="text-align: right;">Page 344</p> <p>1 was asked to come up with the number of cases</p> <p>2 that we had that would have had talc exposure,</p> <p>3 would have named the talc defendant -- or named</p> <p>4 Eastern Magnesia Talc and settled or dismissed</p> <p>5 with Eastern Magnesia Talc. I was given those</p> <p>6 parameters, and that's what I did.</p> <p>7 Q So, for example, R.C.A Rubber, if there's a</p> <p>8 product ID issue there, would that show up in</p> <p>9 your database?</p> <p>10 MR. ROTH: Objection to</p> <p>11 form.</p> <p>12 A What do you mean by that?</p> <p>13 Q Well, if they -- if the Engelhard records show</p> <p>14 that there were no sales or very few sales or</p> <p>15 certain times of sales, would that turn up in</p> <p>16 your database?</p> <p>17 MR. McDERMOTT: Objection.</p> <p>18 MR. ROTH: Objection.</p> <p>19 A I don't -- I don't think so, no.</p> <p>20 Q All right. So if R.C.A Rubber, for example,</p> <p>21 bought Engelhard talc or Emtal talc from 1964</p> <p>22 to 1970 and then stopped buying it, would that</p> <p>23 be reflected in your database?</p> <p>24 A Would those sales be reflected, no.</p> <p>25 Q Yeah.</p>
<p style="text-align: right;">Page 343</p> <p>1 plants, and whether we named them.</p> <p>2 Q Named them in the complaint?</p> <p>3 A In the complaint, yes.</p> <p>4 Q So Engelhard? Or Emtal?</p> <p>5 A I think it was usually -- yeah, Eastern</p> <p>6 Magnesia Talc I think is usually how we named</p> <p>7 them, but we may have named them at Engelhard.</p> <p>8 I don't recall for sure.</p> <p>9 Q So you searched for places where they worked.</p> <p>10 And could you list all of the places where you</p> <p>11 thought --</p> <p>12 A I could list a good number of them. They would</p> <p>13 be Goodyear, Goodrich, Firestone, General Tire,</p> <p>14 Mohawk, Seiberling Rubber, probably R.C.A</p> <p>15 Rubber, Cooper. That's what jumps out at me</p> <p>16 right now.</p> <p>17 Q Well, you said, "probably R.C.A Rubber." Is</p> <p>18 that in the 2,653 or not in the 2,653?</p> <p>19 A I think that's probably in the 2,653, yeah.</p> <p>20 Q Who came up with that list for the 2,653, the</p> <p>21 list of where they worked?</p> <p>22 A I did. Yeah.</p> <p>23 Q Did you tell Mr. Placitella or anybody from his</p> <p>24 firm how you were doing that?</p> <p>25 A I don't recall if we discussed that or not. I</p>	<p style="text-align: right;">Page 345</p> <p>1 And then you had a plaintiff who started</p> <p>2 working there in 1972 and the rubber companies</p> <p>3 started using R.T. Vanderbilt talc. Would that</p> <p>4 be somehow captured in your database?</p> <p>5 A I don't -- I don't believe it would be.</p> <p>6 Q So the timing of the talc sales wouldn't be</p> <p>7 reflected in your database?</p> <p>8 A I don't think so.</p> <p>9 Q And, similarly, the talc sales themselves</p> <p>10 wouldn't be reflected in your database?</p> <p>11 A No.</p> <p>12 Q Okay.</p> <p>13 MR. ROTH: How much time</p> <p>14 do you have left?</p> <p>15 MR. ASSAF: We're rolling.</p> <p>16 MR. ROTH: That didn't</p> <p>17 help me.</p> <p>18 Q I'm showing you Defendants' Exhibit 238,</p> <p>19 Defendants' Exhibit 239, and Defendants'</p> <p>20 Exhibit 240.</p> <p>21 By the way, when you were pulling these</p> <p>22 30 randomized files, did you tell</p> <p>23 Mr. Placitella or anybody at his firm that</p> <p>24 those cases had nothing to do with talc so why</p> <p>25 am I pulling them?</p>

<p style="text-align: right;">Page 346</p> <p>1 MR. ROTH: Objection.</p> <p>2 A I don't recall if we had a conversation or not.</p> <p>3 I was given a list of 30 and that's what we</p> <p>4 did.</p> <p>5 Q Did it seem odd to you that you were producing</p> <p>6 files for people who were not even unnamed</p> <p>7 class members?</p> <p>8 MR. ROTH: Objection.</p> <p>9 A I -</p> <p>10 MR. ROTH: Well, hold on</p> <p>11 one second.</p> <p>12 Did it seem odd that the Court ordered</p> <p>13 the production of files that were unnamed class</p> <p>14 members? Yeah, that seemed odd.</p> <p>15 MR. ASSAF: No, that's not</p> <p>16 my question.</p> <p>17 MR. ROTH: Okay.</p> <p>18 Q My question is: Did it seem odd to you that</p> <p>19 you were pulling files from people who were not</p> <p>20 unnamed class members?</p> <p>21 MR. ROTH: Objection.</p> <p>22 MR. McDERMOTT: Objection.</p> <p>23 Q So if somebody just had asbestos exposure at</p> <p>24 USX, did you just at some point say, "Gee, I've</p> <p>25 been doing this a long time and I understand a</p>	<p style="text-align: right;">Page 348</p> <p>1 administrative dismissal from a panel based on</p> <p>2 House Bill 292.</p> <p>3 And it says in the paragraph, "The</p> <p>4 three-judge Cuyahoga County Common Pleas panel</p> <p>5 on March 22 ruled that because it was unlikely</p> <p>6 that Dr. Ray Harron and Dr. James Ballard would</p> <p>7 testify at any evidentiary hearing questioning</p> <p>8 whether their reports met certain criteria,</p> <p>9 cases relying solely on their diagnoses should</p> <p>10 be dismissed."</p> <p>11 Do you see that?</p> <p>12 A Yes.</p> <p>13 Q And then Exhibit 240 is an example or a listing</p> <p>14 of certain administrative dismissals.</p> <p>15 Do you recognize this?</p> <p>16 A I recognize some of the names.</p> <p>17 Q As your clients?</p> <p>18 A Yes.</p> <p>19 Q And would the administrative dismissals be</p> <p>20 included in the Bevan database, the 2,653?</p> <p>21 Withdrawn.</p> <p>22 If a case were brought and then</p> <p>23 dismissed, so it was filed against Engelhard</p> <p>24 then administratively dismissed, would it be</p> <p>25 captured in the 2,653?</p>
<p style="text-align: right;">Page 347</p> <p>1 little bit of this case, how are these people</p> <p>2 at all relevant to discovery in this case?"</p> <p>3 A My recollection, I got a list, I gave it to the</p> <p>4 paralegal, I said, "Get these files out." And</p> <p>5 that's what we did.</p> <p>6 Q So how did you -- how did the plaintiffs</p> <p>7 generate the list of the 30?</p> <p>8 MR. McDERMOTT: Objection.</p> <p>9 A I didn't generate the list. I don't know how</p> <p>10 it was generated. It was given to me.</p> <p>11 Q Did you give them information to allow them to</p> <p>12 generate the list?</p> <p>13 A We must have given a database or something. I</p> <p>14 don't know how they -- you have to ask them how</p> <p>15 they got it. I was under the impression it</p> <p>16 came from the Court, but I don't know.</p> <p>17 Q All right. Defendants' Exhibit 238 is an entry</p> <p>18 and an opinion -- and I'm sorry, this is from</p> <p>19 microfiche, on January 6, 2006 from Judge Harry</p> <p>20 Hanna, Leo Spellacy, and Francis Sweeney --</p> <p>21 regarding House Bill 292.</p> <p>22 Do you recognize this?</p> <p>23 A I think I've seen this, yes.</p> <p>24 Q Exhibit 239 is again a microfiche article from</p> <p>25 Mealey's Litigation Report regarding the</p>	<p style="text-align: right;">Page 349</p> <p>1 A I think yes, but I'm not certain of that.</p> <p>2 Q You don't have a reliable answer on that that a</p> <p>3 Court could rely on?</p> <p>4 MR. ROTH: Objection.</p> <p>5 MR. ASSAF: Basis?</p> <p>6 A I would have to -- I would have to look at it</p> <p>7 closer. We -- we had cases reread, that's why</p> <p>8 you saw on that thing there was multiple B</p> <p>9 reads on there. So I assume that some of these</p> <p>10 cases that were dismissed were reactivated</p> <p>11 and -- based on the new B reads.</p> <p>12 Q And if your database only lists Dr. Harron as</p> <p>13 the reader, would you have to go to the files</p> <p>14 to figure out whether there was an additional B</p> <p>15 read?</p> <p>16 A I would go to the file to look to see if there</p> <p>17 was an additional B read.</p> <p>18 Q The reliable way to figure out whether there</p> <p>19 was an additional read if it's not on your</p> <p>20 database would be to go to the file, correct?</p> <p>21 A Yeah. Yes.</p> <p>22 Q Let me show you what's been marked as</p> <p>23 Defendants' Exhibit 234.</p> <p>24 Paragraph 234 is entitled "Ohio Ethics</p> <p>25 Guide Client File Retention" by the Board of</p>

<p style="text-align: right;">Page 350</p> <p>1 Professional Conduct of the Supreme Court of 2 Ohio. 3 Have you ever heard of this document or 4 seen this document? 5 A I don't think I've ever seen it. 6 Q Do you have IOLTA trust accounts for your talc 7 clients? 8 MR. ROTH: Objection. 9 Mr. Bevan, will you step out of the room, 10 please, so I can put something on the record? 11 ----- 12 (Mr. Bevan no longer present.) 13 ----- 14 THE VIDEOGRAPHER: Do you want to 15 stay on the video record? 16 MR. ROTH: It doesn't have 17 to be on the video record. 18 THE VIDEOGRAPHER: Off the record. 19 MR. ROTH: Mr. Bevan's 20 been subjected to records custodian 21 depositions, he's been challenged about his 22 knowledge about the Ohio Ethics or insurance 23 requirements for and preserving records, he's 24 testified respective of whatever the rules are 25 and whatever he is required to do, that he has</p>	<p style="text-align: right;">Page 352</p> <p>1 ----- 2 THE VIDEOGRAPHER: We're back on 3 the record. 4 BY MR. ASSAF: 5 Q Do you have IOLTA/trust account records for any 6 clients? 7 A Yes. 8 I'm sorry. Trust records? 9 Q Trust account. 10 A Trust accounts, yes. 11 Q For IOLTA, I-O-L-T-A? 12 A Yes. 13 Q Could you turn to page 3? 14 It says, "IOLTA/trust account records 15 shall be kept by lawyer for seven years after 16 termination of representation." 17 Do you see that? 18 A Yes. 19 Q Do you follow that? 20 A Yes. 21 Q Okay. Could you turn to page 5 -- to page 7? 22 It says: Email constitute papers or 23 property which the client is entitled to under 24 Professional Rule 1.16(d). 25 It goes on to say a lawyer shall retain</p>
<p style="text-align: right;">Page 351</p> <p>1 maintained all of this records. 2 This -- you know, if you want to spend 3 your time on this, by my count, we get to 5:15, 4 that's seven hours, including a half hour break 5 for lunch, a 16-minute call with Justice 6 Rivera-Soto, and probably less than 15 minutes 7 when we took a break regarding your 8 spreadsheet. 9 MR. ASSAF: I don't think 10 that's right. Well, the videographer has the 11 time. 12 THE VIDEOGRAPHER: 6:28, but that 13 includes the call. 14 MR. ASSAF: So I have 15 roughly six hours. I have another 50 minutes. 16 MR. ROTH: I've been wrong 17 before. 18 MR. ASSAF: Okay. 19 MR. ROTH: Given that we 20 started at nine and it feels like 10 hours. 21 But, you know, I'm objecting to this. 22 MR. ASSAF: Okay. Let's 23 bring him back in. 24 ----- 25 (Mr. Bevan now present.)</p>	<p style="text-align: right;">Page 353</p> <p>1 emails that have a substantive impact upon a 2 client's future representation. 3 Do you see that? 4 A Yes. 5 Q And do you conduct your business with emails 6 consistent with those statements? 7 A You know, I don't correspond with the clients 8 by emails, so it doesn't really come up with -- 9 in my practice. 10 So if I have a -- if I do get the 11 occasional email, and I might get a couple a 12 year from a client, you know, I'll print it out 13 and it will go into the client's file. 14 Q It says, "The retention and maintenance of 15 client-related emails shall be incorporated 16 into the firm's file retention policy." 17 Do you see that? 18 A Yeah. 19 Q Have you incorporated the retention of 20 client-related emails into your firm's file 21 retention policy? 22 MR. McDERMOTT: Objection. 23 MR. ROTH: Objection. 24 A I think I testified before we don't have a 25 formal client file retention. Our files are</p>

<p style="text-align: right;">Page 354</p> <p>1 electronic and we store them indefinitely.</p> <p>2 Q The last sentence says, "Consequently, a lawyer</p> <p>3 shall undertake steps to collect and store</p> <p>4 emails by client and matter to ensure they are</p> <p>5 physically and electronically associated with</p> <p>6 the client file."</p> <p>7 Do you see that?</p> <p>8 A Yes.</p> <p>9 Q Does your firm do that?</p> <p>10 A No. Other than if I get an email from a</p> <p>11 client. I'll print it out and scan it to his</p> <p>12 file or her file.</p> <p>13 Q Let's go back to D Ex 1, please.</p> <p>14 Can you turn to paragraph 228? It says:</p> <p>15 When negotiating these aggregate settlements</p> <p>16 and deciding to recommend and obtain its</p> <p>17 clients' consent and authorization to</p> <p>18 participate in them, the Bevan Law Firm</p> <p>19 reasonably relied upon and acted upon Cahill</p> <p>20 Gordon and BASF's (or its predecessors)</p> <p>21 representations from 1992 forward."</p> <p>22 Do you see that?</p> <p>23 A Yes.</p> <p>24 Q With respect to the five named plaintiffs,</p> <p>25 could you identify for me when you obtained</p>	<p style="text-align: right;">Page 356</p> <p>1 A Yes.</p> <p>2 Q So if they were to say that you just presented</p> <p>3 them with what the settlement terms were, would</p> <p>4 that be accurate?</p> <p>5 MR. ROTH: Objection.</p> <p>6 MR. McDERMOTT: Objection.</p> <p>7 A I presented them with these are what the</p> <p>8 settlement terms are. If you want to do this,</p> <p>9 sign, sign and return it to us.</p> <p>10 Q And did you -- with respect to Ware, and I</p> <p>11 think you said -- the two you didn't talk to,</p> <p>12 Ware and Wengerd?</p> <p>13 A I said we didn't settle with Wengerd.</p> <p>14 Q Right.</p> <p>15 A Or Graham at the time.</p> <p>16 And Ware, I don't recall if we settled or</p> <p>17 not with Ware.</p> <p>18 Q Okay. And then with respect to Williams and</p> <p>19 Darnell and Pease, could you tell me what their</p> <p>20 reaction was to the settlement with the talc</p> <p>21 companies?</p> <p>22 MR. McDERMOTT: Objection.</p> <p>23 MR. ROTH: Objection.</p> <p>24 A I don't recall their reaction, other than they</p> <p>25 went along with it. I don't recall them being</p>
<p style="text-align: right;">Page 355</p> <p>1 their consent and authorization to settle with</p> <p>2 Emtal and the circumstances surrounding each?</p> <p>3 MR. McDERMOTT: Objection.</p> <p>4 MR. ROTH: Objection.</p> <p>5 A You're talking about the five representative</p> <p>6 plaintiffs?</p> <p>7 Q Yes.</p> <p>8 A Well, for starters, Graham did not settle with</p> <p>9 Eastern Magnesia Talc. So that gets us to</p> <p>10 four.</p> <p>11 So the Williams/Clark.</p> <p>12 I told you I wasn't sure about the Ware</p> <p>13 case, whether we settled or not, so I can't</p> <p>14 answer that, but with Williams and Clark, that</p> <p>15 was back in the '90s at some point. So it was</p> <p>16 20 years ago. I don't recall exactly, you</p> <p>17 know, when we had that conversation or</p> <p>18 discussion.</p> <p>19 With respect to Darnell, that would have</p> <p>20 been in the early 2000s, probably 2001, maybe</p> <p>21 2002, and I would have had conversations either</p> <p>22 with Mrs. Darnell or Marilyn Holley, but I</p> <p>23 can't give you a date.</p> <p>24 Q Did you obtain their consent for each and every</p> <p>25 settlement that you entered into?</p>	<p style="text-align: right;">Page 357</p> <p>1 jubilant or being upset. I don't recall what</p> <p>2 their reaction was.</p> <p>3 Q Did you tell them about the settlement with the</p> <p>4 talc companies, or did you have a legal</p> <p>5 assistant or colleague tell them?</p> <p>6 A I'm sure with Darnell, I'm sure with Williams,</p> <p>7 I'm sure with -- I'm sure with all three of</p> <p>8 those. I told you, I think maybe Pease was at</p> <p>9 the -- or -- yeah, Nancy Pease may have been at</p> <p>10 the settlement conference when that settlement</p> <p>11 occurred.</p> <p>12 Q There was a settlement conference for the talc</p> <p>13 settlement?</p> <p>14 A Yes.</p> <p>15 Q When was that?</p> <p>16 A I would be willing to venture that it was</p> <p>17 August 14 of 1997. And I base that on I know</p> <p>18 it was the day before my sister's birthday,</p> <p>19 which was the day before her wedding, because I</p> <p>20 know where I went after that settlement</p> <p>21 conference.</p> <p>22 Q Who was at the settlement conference?</p> <p>23 A Bruce Mandel was there. I believe -- I believe</p> <p>24 it was Scott Martin or -- or Allen Joslyn I</p> <p>25 believe. I'm sure Sam Martillotta was there.</p>

<p style="text-align: right;">Page 358</p> <p>1 I think -- Victoria Vance I think was 2 representing Johnson & Johnson. Somebody from 3 the Buckingham firm I believe was representing 4 Harwick. I think those are the players that 5 would have been there. 6 Q Was it a Court supervised settlement 7 conference? 8 A Yes. 9 Q What judicial officer or mediator was present? 10 A I believe it was Judge James J. Sweeney that 11 was present. 12 Q And what did Ms. [sic] Judge Sweeney say 13 regarding settlement? 14 MR. ROTH: Objection. 15 A I don't recall, other than trying to get all of 16 the parties to settle. And he was successful. 17 Q Did the parties provide Judge Sweeney with any 18 written information prior to the mediation? 19 A I don't believe so. 20 Q Did you have -- 21 A There may have been pending summary judgments, 22 I'm not sure, but Judge Sweeney never required 23 any type of, you know, mediation statements or 24 anything like that. 25 Q Did you tell Judge Sweeney that you believed</p>	<p style="text-align: right;">Page 360</p> <p>1 Q Did you want to settle the case? 2 A We were agreeable to settling it. 3 Q Do you believe that Mr. Martillotta said 4 anything at that settlement conference that was 5 misleading or false? 6 MR. McDERMOTT: Objection. 7 A I don't recall him saying anything misleading 8 or false. 9 Q Did you tell Mr. Placitella about that 10 settlement conference? 11 MR. ROTH: Objection. 12 A I don't think so. I think this is the first 13 time I've thought about it in 20 plus years. 14 Q Did you have a number going into that 15 settlement conference that was in your mind? 16 MR. McDERMOTT: Objection. 17 A I don't recall. I don't recall. 18 Q Were you pleased with the settlement? 19 MR. McDERMOTT: Objection. 20 A I wasn't -- I didn't go out and celebrate. It 21 was a settlement and we moved forward with 22 other cases. 23 Q For any of the thousands of talc cases that you 24 had, did you ever hire any geologists as an 25 expert?</p>
<p style="text-align: right;">Page 359</p> <p>1 based on what Cahill told you there was no 2 asbestos in the talc? 3 MR. McDERMOTT: Objection. 4 A I don't recall if that was discussed or not. 5 I'm sure that was thrown in our face by Cahill 6 Gordon, but whether I told that to Judge 7 Sweeney -- I'm sure they told Judge Sweeney. 8 Q Did you tell Judge Sweeney that there was 9 asbestos in Southern Talc? 10 MR. McDERMOTT: Objection. 11 MR. ROTH: Objection. 12 A I don't know what I knew about Southern Talc at 13 that point, if I knew that then or not. I'm 14 not sure. I don't recall. 15 Q In words or in substance, did Judge Sweeney 16 recommend to you that you settle the case? 17 MR. McDERMOTT: Objection. 18 A I don't think so. He wasn't the kind of -- he 19 wasn't an arm-twister. I mean, he got 20 everybody together and talked to people, but he 21 was not the kind of judge that tells one side 22 their case is really bad and brings in the 23 other side and tells them their case is really 24 bad and tries to -- you know, that wasn't his 25 style. So I don't recall that.</p>	<p style="text-align: right;">Page 361</p> <p>1 A I don't recall hiring a geologist. We had 2 Dr. Abraham I think on one case. Whether he 3 is -- I know he's a pathologist. Whether he's 4 a geologist, I don't think so. We may have -- 5 Q He's a pathologist? 6 A I think he's a pathologist, Dr. Abraham, yeah. 7 Q Yeah. That's different than a geologist. 8 A I said whether he's -- 9 Q Right. 10 A You know, he -- 11 Q I think we'll stipulate that geologists are 12 different than pathologists. 13 A So I don't recall hiring a geologist. 14 Q In terms of the thousands of talc cases that 15 you handled, did you ever retain as an expert 16 an epidemiologist? 17 A No. 18 Q In terms of the thousands of talc cases that 19 you handled, did you ever retain as an expert 20 an industrial hygienist? 21 A We've retained industrial hygienists. 22 Q For the talc cases? 23 A Whether to specifically address talc -- 24 Q Yes. 25 A I don't recall if they specifically addressed</p>

<p style="text-align: right;">Page 362</p> <p>1 talc or not. I'm not sure.</p> <p>2 Q The best that you can recall, with respect to</p> <p>3 the thousands of talc cases you've litigated,</p> <p>4 can you identify for me any expert that you</p> <p>5 retained for testimony?</p> <p>6 A Oh, we would have retained --</p> <p>7 Q Apart from doctors.</p> <p>8 A Oh, apart from doctors.</p> <p>9 We had retained an industrial hygienist</p> <p>10 by the name of Thomas Eggers. I think we may</p> <p>11 have retained Ken Cohen. There was a</p> <p>12 Dr. Brustein, who was both a doctor and an</p> <p>13 industrial hygienist.</p> <p>14 I'm not recalling other industrial</p> <p>15 hygienists at this time.</p> <p>16 Q And you retained them for testimony in talc</p> <p>17 cases?</p> <p>18 A I think so, yes.</p> <p>19 Q Which ones?</p> <p>20 A I think -- I think Brustein we retained on a</p> <p>21 number of cases back in the '90s, which ones</p> <p>22 for sure, I'm not positive.</p> <p>23 Same with Eggers. We retained him</p> <p>24 numerous times back in the '90s, I just can't</p> <p>25 tell you which cases.</p>	<p style="text-align: right;">Page 364</p> <p>1 any talc company?</p> <p>2 MR. ROTH: Objection to</p> <p>3 form.</p> <p>4 MR. McDERMOTT: Objection.</p> <p>5 A I already answered that. I think it was an</p> <p>6 eight and a half inch high stack of files that</p> <p>7 were my old talc settlement files going back 20</p> <p>8 years.</p> <p>9 Q But no individual Tom Bevan notes?</p> <p>10 A Whatever was in that file. If my notes were in</p> <p>11 that file, if there were any notes from that,</p> <p>12 you know. You know, there might be some</p> <p>13 handwriting from me in those files.</p> <p>14 Q With respect to the named plaintiffs in this</p> <p>15 case, apart from the three that you contacted</p> <p>16 after Mr. Placitella called you, those</p> <p>17 five-minute conversations, and then seeing some</p> <p>18 of them to say hi and how are you, have you had</p> <p>19 any substantive conversation regarding the</p> <p>20 Williams case at all?</p> <p>21 MR. ROTH: Objection to</p> <p>22 form.</p> <p>23 A With those folks?</p> <p>24 Q Correct.</p> <p>25 A Nothing that I would consider substantive.</p>
<p style="text-align: right;">Page 363</p> <p>1 Q So do you remember on the R.T. Vanderbilt</p> <p>2 summary judgment motion it said you retained</p> <p>3 some experts?</p> <p>4 A Yes.</p> <p>5 Q But they didn't provide sufficient opinion?</p> <p>6 A According to whoever -- whatever judge that</p> <p>7 was, Judge Spellacy or Judge Hanna, yes.</p> <p>8 Q Were they -- were those opinions ever accepted</p> <p>9 by any Court?</p> <p>10 MR. McDERMOTT: Objection.</p> <p>11 Q Withdrawn. Bad question.</p> <p>12 Regarding any of the experts you retained</p> <p>13 in the talc cases, were any of those opinions</p> <p>14 ever accepted by any Court?</p> <p>15 MR. ROTH: Objection.</p> <p>16 A I used affidavits in response to summary</p> <p>17 judgment from Dr. Eggers, from Ken Cohen, I</p> <p>18 believe from Dr. Brustein on a number of</p> <p>19 occasions.</p> <p>20 Q With respect to talc cases?</p> <p>21 A I think with respect to talc cases.</p> <p>22 Q And would that be anywhere in the database?</p> <p>23 A No, I don't think so. I don't think.</p> <p>24 Q Do you have a separate file regarding your</p> <p>25 settlement negotiations with Emtal or Cahill or</p>	<p style="text-align: right;">Page 365</p> <p>1 Q Is there a reason why you haven't discussed</p> <p>2 with them the case?</p> <p>3 A There hasn't been --</p> <p>4 MR. McDERMOTT: Objection.</p> <p>5 A -- a reason for me to discuss anything with</p> <p>6 them and Placitella's been handling that and</p> <p>7 dealing with the clients. So I just haven't</p> <p>8 had a need to.</p> <p>9 Q You never felt it was appropriate for you to</p> <p>10 call them and tell them about how you view this</p> <p>11 case or what the facts were or what your</p> <p>12 understanding of the settlements were?</p> <p>13 MR. ROTH: Objection.</p> <p>14 MR. McDERMOTT: Objection.</p> <p>15 A Other than the initial conversations that I</p> <p>16 referred to. I haven't felt the need to go</p> <p>17 beyond that.</p> <p>18 Q Have you ever attended any meetings with any</p> <p>19 plaintiff in this case and representatives from</p> <p>20 Cohen, Placitella & Roth?</p> <p>21 A I don't believe so. I've popped in in the</p> <p>22 conference room if they were meeting with a</p> <p>23 client and said hi.</p> <p>24 We may have had a meeting with Mike Coren</p> <p>25 and Marilyn Holley early on in this process,</p>

<p style="text-align: right;">Page 366</p> <p>1 and I think maybe I stayed in for that whole 2 meeting. 3 Q What was that meeting about? 4 A Just about this case. 5 Q What was said -- 6 MR. ROTH: Objection. 7 Q -- regarding this case? 8 MR. ROTH: I'm sorry. 9 MR. McDERMOTT: Same objection. 10 MR. ROTH: Objection. 11 Privilege. 12 Q You can answer. 13 THE WITNESS: Are you going 14 to let me answer that? That was between two 15 attorneys and their client. I think that's 16 clearly privileged. 17 MR. ROTH: Yeah. 18 THE WITNESS: I would not 19 answer that. In fact, I don't care what you 20 guys say, I'm not answering that. 21 MR. ROTH: Then I'll ask 22 you not to answer it. If you can't answer it 23 without revealing attorney-client privilege, 24 then please do not. 25 A It would be discussions with me and attorney</p>	<p style="text-align: right;">Page 368</p> <p>1 to time, if Marilyn Holley was out meeting with 2 them, I would pop in and say hi to Marilyn. 3 Q Regarding this first meeting with Mr. Coren and 4 Ms. Holley, during that meeting, did you 5 discuss the facts of the underlying litigation, 6 why the case was settled and why you would have 7 settled it or didn't settle it? 8 A I'm not going to discuss a meeting that -- 9 MR. McDERMOTT: Objection. 10 A -- I had with my client, conversations that I 11 had with my client. 12 MR. McDERMOTT: I instruct you 13 not to -- 14 Q I'm asking for a yes or no. Did you discuss 15 the facts? 16 MR. McDERMOTT: Objection. 17 A I'm not going to answer that question. 18 MR. McDERMOTT: Privilege. 19 Q Did you discuss the facts? 20 MR. McDERMOTT: Objection. 21 Privilege. 22 A That's no different question than saying "Tell 23 me what you discussed." 24 Q No, I'm not -- 25 A Okay. That's the same -- that's the same</p>
<p style="text-align: right;">Page 367</p> <p>1 Mike Coren and Marilyn Holley was there. And I 2 don't know if anybody else was there. 3 Q How long did the meeting last? 4 A I don't recall. 5 Q Where was it? 6 A In my conference room. 7 Q Did you meet with any other of the plaintiff 8 representatives and representatives of Cohen, 9 Placitella? 10 A I don't recall if anybody else was there at 11 that meeting. That's the only meeting I 12 recall. I recall stepping into the conference 13 room and introducing myself to Gayle -- is she 14 Williams? 15 Q Williams. 16 A Yeah, Gayle Williams, who I had not -- you 17 know, I met her two sisters many times and her 18 brother many times and her parents, but I had 19 never -- I don't think I had ever met her 20 face-to-face. So I went in and introduced 21 myself. But I did not participate in the 22 meeting. 23 I'm sure I popped in the conference room 24 to say hi to Donnette Wengerd and ask her about 25 her children. I'm sure there was -- from time</p>	<p style="text-align: right;">Page 369</p> <p>1 thing. 2 Q Did you discuss -- 3 A If I were to say "I discussed the facts," it's 4 the same thing. 5 MR. McDERMOTT: Conversation is 6 privileged. 7 Q Did you discuss any of the underlying facts of 8 Ms. Holley's case with Mr. Coren and 9 Ms. Holley? 10 MR. McDERMOTT: Tom, don't 11 answer that question. 12 MR. ROTH: Let me speak to 13 counsel. 14 THE VIDEOGRAPHER: Off the record. 15 ----- 16 (Recess taken.) 17 ----- 18 THE VIDEOGRAPHER: We're back on 19 the record. The time is 5:33. 20 MR. McDERMOTT: I want to just 21 go on the record. I've been given some 22 clarification on the infield fly rule of 23 privilege in the Williams matter, and I'm going 24 to withdraw my instruction for you not to 25 answer and I want to see if Mr. Assaf can</p>

<p style="text-align: right;">Page 370</p> <p>1 rephrase his question whether I'll invoke that.</p> <p>2 THE WITNESS: Okay.</p> <p>3 BY MR. ASSAF:</p> <p>4 Q Regarding this meeting with Ms. Holley and</p> <p>5 Mr. Coren, did you discuss any of the</p> <p>6 underlying facts of the case?</p> <p>7 MR. ROTH: So --</p> <p>8 MR. McDERMOTT: You want to do</p> <p>9 this?</p> <p>10 MR. ROTH: I got it.</p> <p>11 MR. McDERMOTT: Okay.</p> <p>12 MR. ROTH: I'm going to</p> <p>13 object to the question as phrased. If by</p> <p>14 "underlying case" you mean the case that was</p> <p>15 either dismissed or settled against Emtal or</p> <p>16 Engelhard, then there is no objection.</p> <p>17 THE WITNESS: I still need, I</p> <p>18 think, a bit more clarification.</p> <p>19 MR. ROTH: Let me try it</p> <p>20 this way.</p> <p>21 As part of the discussion we had with</p> <p>22 Judge Linares, and Mr. Assaf will correct me if</p> <p>23 he thinks I'm misstating, the way that</p> <p>24 Justice --</p> <p>25 MR. ASSAF: Whoa. Whoa.</p>	<p style="text-align: right;">Page 372</p> <p>1 Mr. Bevan?</p> <p>2 A If I had to estimate, I would say a half hour</p> <p>3 to an hour and a half.</p> <p>4 Q Okay. And in this 30- to 90-minute meeting,</p> <p>5 did you answer any questions from Mr. Coren</p> <p>6 regarding what happened in your experience</p> <p>7 litigating against Emtal?</p> <p>8 A No. I don't think he asked me any questions.</p> <p>9 Q Did you provide him any information regarding</p> <p>10 what your -- any of the facts related to the</p> <p>11 Williams complaint?</p> <p>12 A I don't --</p> <p>13 MR. ROTH: Objection.</p> <p>14 A I don't --</p> <p>15 MR. ROTH: You can answer.</p> <p>16 A I don't think I provided him any facts.</p> <p>17 Q Were you just there listening?</p> <p>18 A Yeah, I was pretty much just there listening.</p> <p>19 Q And did Ms. Damell -- or I'm sorry,</p> <p>20 Ms. Holley, provide you with any information</p> <p>21 during that meeting?</p> <p>22 MR. ROTH: Objection.</p> <p>23 Privilege.</p> <p>24 MR. McDERMOTT: Privilege.</p> <p>25 MR. ROTH: I think you can</p>
<p style="text-align: right;">Page 371</p> <p>1 Whoa. Stop. Let me explain it. If you -- I</p> <p>2 just -- I don't want to suggest an answer.</p> <p>3 BY MR. ASSAF:</p> <p>4 Q My first question is: Did you discuss any of</p> <p>5 the facts regarding Ms. Holley's case against</p> <p>6 Engelhard; why it was settled, why it was</p> <p>7 brought, you know, what you knew about it, you</p> <p>8 know, any of those facts? Did you -- yes or</p> <p>9 no.</p> <p>10 A About Kathryn Damell's case against Eastern</p> <p>11 Magnesia and why we sued them, why we settled</p> <p>12 with them?</p> <p>13 Q Yeah. Did you discuss any of that?</p> <p>14 A I don't recall if we discussed that or not.</p> <p>15 Q What did -- what generally -- what topic did</p> <p>16 you discuss if you didn't discuss the facts?</p> <p>17 MR. McDERMOTT: Objection.</p> <p>18 A What --</p> <p>19 MR. McDERMOTT: Objection.</p> <p>20 Privilege. Isn't this outside the ambit of the</p> <p>21 ruling?</p> <p>22 MR. ROTH: It is.</p> <p>23 MR. McDERMOTT: Don't answer</p> <p>24 it, Tom.</p> <p>25 Q You don't know how long this meeting lasted,</p>	<p style="text-align: right;">Page 373</p> <p>1 answer yes or no, but ...</p> <p>2 A I don't recall her providing any facts.</p> <p>3 Q All right. So this 30- to 60-minute meeting,</p> <p>4 there's no discussion of any of the facts</p> <p>5 related to the Williams case?</p> <p>6 MR. ROTH: Objection.</p> <p>7 Form and foundation.</p> <p>8 A That's not what I said.</p> <p>9 Q Is there a discussion of the facts relating to</p> <p>10 the Williams case?</p> <p>11 MR. ROTH: Objection.</p> <p>12 Privilege.</p> <p>13 A To the extent that Mr. Coren went through a</p> <p>14 rendition of what the Placitella firm had</p> <p>15 discovered from BASF regarding the fraudulent</p> <p>16 statements and misrepresentations, I'm sure</p> <p>17 that that was explained.</p> <p>18 Q To you and Ms. Holley?</p> <p>19 A It had already been explained to me, to</p> <p>20 Ms. Holley.</p> <p>21 Q And did you ask Mr. Coren any questions about</p> <p>22 those facts that he was conveying to you?</p> <p>23 MR. ROTH: Objection.</p> <p>24 Privilege. We're outside the scope of what is</p> <p>25 permitted. I'm going to ask you not to answer.</p>

<p style="text-align: right;">Page 374</p> <p>1 MR. McDERMOTT: Tom, don't 2 answer. 3 Q So you sit in this meeting for 30 to 60 minutes 4 with Ms. Holley and Mr. Coren, fair? 5 A Yes. 6 Q And you don't mention a single thing regarding 7 Ms. Holley's case, Mr. Damell's case, in that 8 30 to 60 minutes? 9 MR. McDERMOTT: Objection. 10 MR. ROTH: Objection. 11 A Yeah, I think you're mischaracterizing it. So 12 I stand by what I told you. I told you what I 13 can recall being discussed. 14 Q In this 30- to 90-minute meeting with 15 Mr. Coren, you, Tom Bevan, don't provide 16 Mr. Coren or Ms. Holley with a single fact that 17 you know? 18 MR. McDERMOTT: Objection. 19 Q Fair? 20 MR. ROTH: Objection. 21 MR. McDERMOTT: Form, 22 foundation. 23 A Yeah, I don't recall providing any facts. 24 Q Other than this meeting with Ms. Holley and 25 Mr. Coren, did you attend any other meetings</p>	<p style="text-align: right;">Page 376</p> <p>1 Q Did Mr. Coren -- this is a yes or no. 2 Did Mr. Coren or anybody from the 3 Placitella firm ever interview you regarding 4 your understanding of the facts? 5 MR. McDERMOTT: Objection. 6 MR. ROTH: Objection. 7 Privilege and work-product. 8 MR. ASSAF: Just interview. 9 Q You can answer. 10 A I would say that I never felt that I was being 11 interviewed, so I would say no to that. 12 Q Did you ever review any interrogatory responses 13 provided by the plaintiffs? 14 MR. McDERMOTT: Objection. 15 A In this case? 16 Q Yes. 17 A I don't recall if I reviewed -- their answers 18 in this particular case, yeah, I don't recall 19 if I did or not. 20 MR. ASSAF: Let's go off 21 the record. I think I'm almost done. 22 THE VIDEOGRAPHER: Off the record. 23 The time is 5:40. 24 ----- 25 (Recess taken.)</p>
<p style="text-align: right;">Page 375</p> <p>1 with Cohen, Placitella, Roth and any named 2 plaintiffs? 3 MR. ROTH: Asked and 4 answered. 5 A Nothing other than what I've mentioned. 6 Q And have you discussed this case with anybody 7 else other than Coren, Placitella, and Roth? 8 MR. ROTH: Did you just 9 elevate Mr. Coren? 10 Q Withdrawn. 11 Did you discuss this case with anybody 12 else other than the Coren -- Cohen, Placitella 13 firm? 14 A Other than Erin Clark and Pat Walsh. 15 Q And the reporter? 16 A And the reporter that I had mentioned, yes. 17 Q Well, two reporters, correct? 18 A Yes. Yes. 19 Q So is it fair to say that you have provided 20 reporters with more factual information than 21 you provided to Mr. Coren? 22 MR. McDERMOTT: Objection. 23 MR. ROTH: Wow. 24 Objection. 25 A No.</p>	<p style="text-align: right;">Page 377</p> <p>1 ----- 2 THE VIDEOGRAPHER: We're back on 3 the record. The time is 5:43. 4 MR. ASSAF: That's Volume 5 I. Sorry, everybody. 6 Let's go back off the record. I have to 7 find my copy. 8 THE VIDEOGRAPHER: Off the record. 9 ----- 10 (Off the record.) 11 ----- 12 THE VIDEOGRAPHER: We're back on 13 the record. The time is 5:45. 14 BY MR. ASSAF: 15 Q Let me show you Ms. Holley's deposition from 16 February 21, 2018. 17 MR. ROTH: Volume II? 18 MR. ASSAF: Yep. 19 MR. ROTH: I think I have 20 your copy. 21 MR. ASSAF: Ah. That's why 22 I couldn't find it. 23 MR. ROTH: I didn't have 24 to give it to you either. 25 Q Okay. Could you turn to page 228?</p>

<p style="text-align: right;">Page 378</p> <p>1 Line 3, "It says, 'Have you had 2 discussions with Mr. Bevan regarding the facts 3 in this case, the Williams case? Just answer 4 'yes' or 'no.' Do you see that?" 5 And she says, "I may be mistaken, but I 6 thought you said you haven't spoken to -- 7 Mr. Roth I think is pointing to the Williams 8 case. I think when I was asking about the 9 Williams case in your first deposition, we were 10 talking about the underlying allegations and 11 the facts of the Williams case. Do you see 12 that?" 13 "So did you discuss the facts?" 14 And she said, "I may have misunderstood 15 the question." 16 And then if you turn to the next page -- 17 actually, 239. 18 MR. McDERMOTT: 239? 19 MR. ASSAF: 239. 20 Q Line 19. "Mr. Coren and Mr. Bevan had 21 discussions?" 22 "Right. Right. Right." 23 "Regarding the facts?" 24 Answer, "Right." 25 MR. McDERMOTT: I'm sorry,</p>	<p style="text-align: right;">Page 380</p> <p>1 Q So you don't recall discussing any facts in 2 front of Ms. Holley? 3 MR. ROTH: Asked and 4 answered. 5 MR. McDERMOTT: Objection. 6 A I answered your question. 7 Q Okay. Other than the Holley meeting, did you 8 have any -- withdrawn. 9 Other than the meeting, did you have any 10 telephone communications with any of the named 11 plaintiffs other than the Placitella early 12 calls? Withdrawn. 13 MR. ROTH: Objection. 14 Q Other than the initial three calls after 15 Mr. Placitella's call, did you have any other 16 telephone communications with any of the named 17 plaintiffs? 18 A I have to go one by one. Mrs. Ware, I do not 19 believe so. Gayle Williams, no. Marilyn 20 Holley, I don't think I've had a phone call 21 with her about it, but I don't recall for sure. 22 Donnette Wengerd, I don't believe I've had a 23 phone call with her. And Mrs. Williams, I do 24 not believe I've had a phone call with her. 25 So I think the answer would be no to</p>
<p style="text-align: right;">Page 379</p> <p>1 Gene. Am I missing something? We went from 2 228 to -- 3 MR. ROTH: He's skipping. 4 MR. ASSAF: You can read 5 the whole thing if you'd like but ... 6 MR. McDERMOTT: I'm just trying 7 to get clarification. 8 Q I'm just trying to understand. Ms. Holley 9 seems to think that you and Mr. Coren discussed 10 the facts during your meeting. Do you think 11 she's mistaken? 12 MR. ROTH: Objection. 13 Form and foundation. 14 A You know, I'm looking up at the lines 11 15 through 18 on page 239. "Mr. Bevan was just 16 part of that meeting. I don't recall Mr. Bevan 17 saying anything to me personally. It was that 18 Mr. Coren did most of the talking because he 19 had just finished a case of this sort and it 20 was Mr. Coren who suggested that we bring the 21 claim. And he had discussions with Mr. Bevan, 22 but I wasn't privy to those discussions." 23 So that's consistent with my recollection 24 and I believe it's consistent with what I 25 testified to.</p>	<p style="text-align: right;">Page 381</p> <p>1 that. 2 Q You and I have had discussions about your 3 recollection of the documents and the 4 settlement communications with Cahill and 5 Mr. Martillotta today, and a lot of your 6 recollection is just the documents, fair? 7 A Just what Cahill Gordon sent me? 8 Q Yes. 9 A Yes, I recall that. 10 MR. ROTH: Objection. 11 Foundation. 12 Q Regarding -- if your four- or five-inch stack 13 of emails had recollections regarding these 14 discussions with Cahill in the underlying 15 cases, would you be willing to look at those in 16 order to refresh your recollection? 17 A I don't think there's anything there that would 18 refresh my recollection, but I could look at 19 it. I mean, my recollection I think today is 20 the same as it was, you know, eight years ago 21 when I first talked to Mr. Placitella about 22 this. 23 Q When you sent this four- or five-inch stack of 24 emails to Mr. Placitella or people at his firm, 25 did they contain facts that you didn't testify</p>

<p style="text-align: right;">Page 382</p> <p>1 to today or you don't know?</p> <p>2 A I don't --</p> <p>3 MR. ROTH: Objection to</p> <p>4 the form.</p> <p>5 A You know, when I was printing them out, I kind</p> <p>6 of looked, but I didn't -- I don't think so. I</p> <p>7 mean, well, there's -- yeah, there's certainly</p> <p>8 stuff about things, nothing related to this,</p> <p>9 you know.</p> <p>10 Q Well, you said you kind of looked. What do you</p> <p>11 mean by that?</p> <p>12 A No, I was -- I printed all of those out myself.</p> <p>13 Q And when did you print those out?</p> <p>14 MR. McDERMOTT: Objection.</p> <p>15 A I don't know. The last month. I'm not sure.</p> <p>16 Q Since your last deposition?</p> <p>17 A I think I printed those -- I think I printed</p> <p>18 those when I think you guys filed a motion to</p> <p>19 compel the production. And I knew it would</p> <p>20 take some time to print those, so I think I</p> <p>21 printed those out just in case I got an order</p> <p>22 from the Court that said I had to produce them.</p> <p>23 I had them ready.</p> <p>24 Q And did you print them in chronological order?</p> <p>25 A I printed them in chronological order. Yeah, I</p>	<p style="text-align: right;">Page 384</p> <p>1 MR. McDERMOTT: Objection.</p> <p>2 A My understanding was there was some mediation</p> <p>3 or something and that the case didn't settle.</p> <p>4 And I don't really know anything more than</p> <p>5 that.</p> <p>6 Q Regarding these emails, do you have them at</p> <p>7 your office?</p> <p>8 A Yes.</p> <p>9 Q Would it be a burden to produce them to the</p> <p>10 Court to review?</p> <p>11 MR. ROTH: Well,</p> <p>12 objection.</p> <p>13 MR. ASSAF: It's a</p> <p>14 burdensome question. It's burdensome.</p> <p>15 MR. ROTH: I understand</p> <p>16 what the question.</p> <p>17 A Well, it would be a burden to me, first of all,</p> <p>18 to go through them and pull out what has</p> <p>19 nothing to do with this talc case. That would</p> <p>20 be a burden.</p> <p>21 Q It would be a burden to go through the four or</p> <p>22 five inches of emails?</p> <p>23 A That's probably 6, 700 pages, maybe more. I</p> <p>24 don't know, it's probably 800. I mean, it's,</p> <p>25 you know.</p>
<p style="text-align: right;">Page 383</p> <p>1 think I started from the oldest one and printed</p> <p>2 forward.</p> <p>3 Q Did you notice in any of the documents whether</p> <p>4 there were attachments?</p> <p>5 A I don't recall if there was attachments. I'm</p> <p>6 sure there would be some attachments on the</p> <p>7 Ross case I'm sure.</p> <p>8 Q Okay. Other than the Ross case, were there</p> <p>9 attachments to your email to Mr. Placitella?</p> <p>10 A I don't recall. I think maybe, but I don't --</p> <p>11 yeah, I don't recall for sure.</p> <p>12 Q Were there emails regarding any of the</p> <p>13 settlement negotiations in this case?</p> <p>14 A Settlement negotiations?</p> <p>15 Q Between the plaintiffs and defendants.</p> <p>16 A On this case?</p> <p>17 Q Yeah.</p> <p>18 A No. I've never seen any emails on that that I</p> <p>19 recall.</p> <p>20 Q Do you have any -- without disclosing what, do</p> <p>21 you have any information regarding any</p> <p>22 settlement negotiations between the plaintiffs</p> <p>23 and the defendants?</p> <p>24 A My understanding was --</p> <p>25 MR. ROTH: Objection.</p>	<p style="text-align: right;">Page 385</p> <p>1 Q 800 pages of emails?</p> <p>2 A What's a ream of paper, that big? I mean, I</p> <p>3 don't know how many. It's a lot of pages.</p> <p>4 Q So there are 800 pages of emails without</p> <p>5 attachments?</p> <p>6 MR. ROTH: Objection.</p> <p>7 MR. McDERMOTT: Objection.</p> <p>8 MR. ROTH: Form and</p> <p>9 foundation.</p> <p>10 A I did not print out any attachments.</p> <p>11 Q So the 800 pages that you're referring to are</p> <p>12 emails, not documents attached to emails, true?</p> <p>13 A There --</p> <p>14 MR. McDERMOTT: Objection.</p> <p>15 A Let me explain. They are every email that I</p> <p>16 ever sent or received that either had Chris</p> <p>17 Placitella on it, Jared Placitella, Mr. Roth on</p> <p>18 it, or Mr. Coren. So the four of those. It's</p> <p>19 every email.</p> <p>20 Some of them relate to Eastern Magnesia</p> <p>21 Talc, some of them might relate to some gasket</p> <p>22 company out of Philadelphia or something. It</p> <p>23 had nothing to do with this. So I just printed</p> <p>24 out everything and figured if I had to go</p> <p>25 through it, at least the printing part was</p>

<p style="text-align: right;">Page 386</p> <p>1 done. If I had to go through it, I could at 2 least have that part done. 3 Q Well, prior to you talking to Mr. Placitella 4 about the Williams case, you didn't have any 5 dealings with him in terms of cases? 6 MR. ROTH: Objection. 7 Asked and answered. 8 Q Gasket cases or otherwise. 9 A There may be some emails prior to that. You 10 know, he may have asked for something and maybe 11 it was something I was able to assist him with. 12 Q Other than the burden that you claim in having 13 to review the 800 pages before you turn them 14 over to the Court, is there any financial 15 burden on you in producing those to the Court? 16 A Whatever my time takes. 17 Q Do you have any objection to providing those to 18 the Court to review? 19 MR. ROTH: Objection. 20 MR. McDERMOTT: Objection. 21 A Yes. 22 Q Why? 23 A The same objections that were stated in our 24 objection to your motion to compel and the 25 Court's ruled on it. And the Court, as far as</p>	<p style="text-align: right;">Page 388</p> <p>1 were proposing on October 7, 1998 settling five 2 rubber worker cases for \$1,000 per case. 3 That's Exhibit 276. 4 A Yes. 5 Q And there was another where you proposed, and I 6 don't have this one in front of me, settling 7 mesothelioma cases for \$3,000 a case. Do you 8 recall that? 9 A Yes. 10 Q Where you have chronic identification, proof of 11 exposure, and proof that the product in which 12 the client has been exposed, is a mesothelioma 13 case worth \$3,000? Is that a fair settlement 14 value? 15 A If I have -- 16 MR. ASSAF: Objection. 17 A If I have product ID, exposure by that 18 plaintiff, proof that the product contained 19 asbestos -- 20 Q Yes. 21 A -- it's worth much more than \$3,000. 22 Q And you've testified that you didn't try these 23 talc cases, but given your experience as an 24 asbestos -- as a plaintiffs lawyer representing 25 people who have gotten an array of diseases</p>
<p style="text-align: right;">Page 387</p> <p>1 I know, has ruled on it and says I don't have 2 to produce those. So ... 3 Q Do you think it would be helpful to your case 4 or hurtful to your case? 5 MR. ROTH: Objection. 6 MR. McDERMOTT: Objection. 7 MR. ROTH: Don't answer 8 that. 9 A I'm not going to answer that. 10 Q I'm done. No more questions. 11 MR. ROTH: I've got a 12 couple. 13 Unless you want to take a break. 14 EXAMINATION OF THOMAS W. BEVAN, ESQ. 15 BY MR. ROTH: 16 Q I apologize at the outset for jumping around a 17 little bit. We're all going to have to dig 18 through some -- we're going to have to dig 19 through some piles of stuff. 20 You were shown by Mr. Assaf some 21 settlement letters sent from you to Sam 22 Martillotta with some settlement proposals. Do 23 you recall that? 24 A Yes. 25 Q I'm looking at one, it's Exhibit 276, when you</p>	<p style="text-align: right;">Page 389</p> <p>1 from asbestos exposure, is a jury verdict 2 potential in a talc case where you have proof 3 that the product has -- that the product 4 contains asbestos, you've identified the 5 product in the plaintiff's workplace and the 6 plaintiff's exposure to the product? Is the 7 jury verdict exposure for a defendant greater 8 than \$1,000 per case or \$3,000 per case if that 9 plaintiff suffered mesothelioma? 10 MR. ASSAF: Objection. 11 Form, foundation. He's testified he's never 12 tried a talc case. 13 MR. ROTH: So form, 14 foundation, that's the objections today, right? 15 Work privilege? 16 MR. ASSAF: Yeah. 17 MR. ROTH: Okay. 18 A It's much greater than that, and I would base 19 that on my -- what I've seen from verdicts 20 around the country and verdicts in Ohio. You 21 don't get a thousand dollar verdict on an 22 asbestos case. You can get zero verdicts, but 23 when there's verdicts there, they're quite 24 substantial on asbestos cases from what I've 25 seen.</p>

<p style="text-align: right;">Page 390</p> <p>1 Q In Ohio, can a plaintiff bringing a lawsuit 2 claiming an asbestos injury recover from a 3 defendant if they can't prove that that 4 defendant's product contained asbestos? 5 A No. 6 Q Is that something that you would expect lawyers 7 both on the plaintiffs side and the defense 8 side to know? 9 MR. ASSAF: Objection. 10 Foundation. 11 A Certainly. And that's one of the things I 12 pointed out earlier in my testimony, is that's 13 one of the key parts of any asbestos case; does 14 the product contain asbestos. 15 Q If the product does not contain asbestos in 16 terms of either -- well, does it matter how 17 good your product identification is? 18 A No. 19 Q Does it matter how good your proof of exposure 20 is? 21 A No. 22 Q In terms of these other elements of the claim, 23 that is product identification and exposure, I 24 want to make sure I understand that a little 25 bit. And maybe it was just to me. It sounded</p>	<p style="text-align: right;">Page 392</p> <p>1 evidence that you look for in your 2 investigation to establish product 3 identification? 4 A We will look for coworkers. Well, first we'll 5 talk to the client. Secondly we'll talk to 6 coworkers. We will go to the defendant to find 7 out what evidence the defendant has that's 8 relevant to the case. That helps us establish 9 product identification. 10 There could be historical photographs. 11 There could be -- there could be government 12 records. Sometimes that could be relevant. 13 Sometimes the employer has records that would 14 be relevant. 15 Q So, generally speaking, you're looking for 16 direct or circumstantial proof that the 17 product, the asbestos containing product, was 18 in a place where your client was working? 19 A Yes. Many of these cases are circumstantial, 20 in that, you know, the client says I was 21 exposed to -- in this case we'll say talc or 22 soapstone, and then we have the evidence of who 23 supplied the talc or soapstone during that 24 relevant time that the client was exposed. 25 Q When you mentioned you sometimes go to the</p>
<p style="text-align: right;">Page 391</p> <p>1 as if some of the questions made that a binary 2 issue, that is you can either have product 3 identification or you don't. 4 Are there cases where you develop product 5 identification during the course of a lawsuit? 6 A Well, that's -- in most instances, during the 7 course of a lawsuit, we're developing the 8 product identification. We don't always have 9 everything that we need to be able to be 10 successful in a case at the time that we filed 11 a case. So we file the case based on a 12 reasonable belief that we may be able to 13 establish a case and then we try to establish 14 that during the course of the litigation. 15 Q Can you establish product identification if the 16 plaintiff doesn't know what product was in the 17 workplace? 18 A Yes. In most -- that's very common, where a 19 plaintiff doesn't know what product -- the name 20 of the product or who the manufacturer or 21 distributor is of the product that he or she 22 was exposed to. And they rely upon us to do 23 the investigation to find out whose product 24 that was that the individual was exposed to. 25 Q What are the types of ways or the types of</p>	<p style="text-align: right;">Page 393</p> <p>1 defendant's -- strike that. Let me take a step 2 back. 3 You were shown by Mr. Assaf Ohio Rules of 4 Professional Conduct relating to document 5 retention. Do you recall that? 6 A Yes. 7 Q Are you familiar with rules, professional 8 responsibility in Ohio that require counsel to, 9 although zealously advocate for their clients, 10 also do so with fairness and candor to their 11 opponents? 12 A I believe that's a -- I don't think that's 13 limited to just Ohio. I think that's limited 14 to the practice of law in this country, that 15 you can't lie. 16 Q And when you receive responses from defendants 17 in discovery, do you assume that those 18 responses are going to comport with the 19 professional obligations of candor and fairness 20 to opponents? 21 A I always have. 22 Q And I apologize, I'm taking a little side track 23 here, but there was an extensive discussion 24 about R.T. Vanderbilt's talc. Do you recall 25 that?</p>

<p style="text-align: right;">Page 394</p> <p>1 A Yes.</p> <p>2 Q And a summary judgment motion where it was</p> <p>3 disputed whether or not R.T. Vanderbilt's talc</p> <p>4 contained asbestos?</p> <p>5 A Yes.</p> <p>6 Q And in opposition to that motion, you provided</p> <p>7 test results that showed that the asbestos --</p> <p>8 that the talc did contain asbestos?</p> <p>9 A Yes.</p> <p>10 Q Where did you get those test results?</p> <p>11 A I believe we got them from R.T. Vanderbilt.</p> <p>12 Q So those were test results or documents that</p> <p>13 would have been in the scope of discovery that</p> <p>14 were responded to?</p> <p>15 MR. ASSAF: Objection.</p> <p>16 Leading.</p> <p>17 A Yes.</p> <p>18 Q And when R.T. Vanderbilt supplied -- they</p> <p>19 disputed the validity of those tests, is that</p> <p>20 correct?</p> <p>21 A I believe so, yes.</p> <p>22 Q Okay. But it wasn't an issue of there was no</p> <p>23 evidence?</p> <p>24 MR. ASSAF: Objection.</p> <p>25 Leading.</p>	<p style="text-align: right;">Page 396</p> <p>1 withdrawing the objection.</p> <p>2 MR. ROTH: That's fine.</p> <p>3 The witness asked that I rephrase it.</p> <p>4 Q If there is no proof -- if there's no asbestos</p> <p>5 in the talc, do you undertake an investigation</p> <p>6 of product identification or exposure?</p> <p>7 A We would -- yeah, we would not dig into that</p> <p>8 deeply. There would be no need to dig into it,</p> <p>9 because if I don't have evidence that there's</p> <p>10 asbestos in the talc, there's no reason to</p> <p>11 devote resources and effort into trying to</p> <p>12 establish anything beyond that.</p> <p>13 Q I don't know if you have it handy, it's</p> <p>14 Exhibit -- Defendants' Exhibit 265. This is an</p> <p>15 April 23 letter from Scott Martin to</p> <p>16 Mr. Economus.</p> <p>17 I have an extra copy if you --</p> <p>18 A That would help.</p> <p>19 Q Okay. So in this letter, Engelhard's -- well,</p> <p>20 let me try it a different way.</p> <p>21 When you received this letter, what did</p> <p>22 you understand it to mean, in terms of the</p> <p>23 strength of your case against Engelhard?</p> <p>24 A That we couldn't establish a case because they</p> <p>25 had tested their talc and there was no asbestos</p>
<p style="text-align: right;">Page 395</p> <p>1 Q Was there an issue where they said there was no</p> <p>2 evidence of asbestos in their talc?</p> <p>3 A No. They didn't claim that. I think I</p> <p>4 testified to that earlier. They gave us those</p> <p>5 records but said, "Well, we have stuff that we</p> <p>6 think trumps those records."</p> <p>7 Q And in terms of the -- well, strike that. I'll</p> <p>8 come back to that.</p> <p>9 But if you have no evidence of asbestos</p> <p>10 in the talc, are you going to undertake an</p> <p>11 investigation of product ID or exposure in a</p> <p>12 case?</p> <p>13 MR. ASSAF: Objection.</p> <p>14 Leading.</p> <p>15 A Could you rephrase that question?</p> <p>16 Q Sure. Although I don't think it was leading,</p> <p>17 let me try it again.</p> <p>18 A Okay.</p> <p>19 Q If there is no --</p> <p>20 MR. ASSAF: Actually, yeah,</p> <p>21 you're right. It's a good question. It is</p> <p>22 good.</p> <p>23 You can answer it.</p> <p>24 MR. ROTH: Okay.</p> <p>25 MR. ASSAF: I'm</p>	<p style="text-align: right;">Page 397</p> <p>1 in their talc and, therefore, we wouldn't be</p> <p>2 able to establish a case against Eastern</p> <p>3 Magnesia Talc.</p> <p>4 Q Okay. And so under cover of this letter, you</p> <p>5 also got these three affidavits, one by</p> <p>6 Mr. Ashton and two by Charles Carter, correct?</p> <p>7 A That's what it indicates, yes.</p> <p>8 Q Okay. And in the context of being -- let's</p> <p>9 take a look at the Ashton affidavit.</p> <p>10 A I've got it. And I have the Martin letter.</p> <p>11 You can have that back.</p> <p>12 Q I'm sorry?</p> <p>13 A I got the Martin letter too.</p> <p>14 Q Okay. Hold on to it.</p> <p>15 In the context of being asked to dismiss</p> <p>16 cases because you cannot prove that there's</p> <p>17 asbestos in the talc -- actually, strike that.</p> <p>18 In the context of being asked to dismiss</p> <p>19 cases on the basis that the talc produced by</p> <p>20 Emtal contains no asbestos, what was your</p> <p>21 understanding of the import, the purpose of</p> <p>22 this Ashton affidavit?</p> <p>23 MR. ASSAF: Objection.</p> <p>24 Foundation, competency.</p> <p>25 A It was to give -- convince me or any other</p>

<p style="text-align: right;">Page 398</p> <p>1 attorneys that there was no asbestos in the 2 talc that Eastern Magnesia Talc mined and sold. 3 Q Okay. And if you turn to the second page of 4 that letter, I'll ask you to look at the third 5 full paragraph that begins "There is 6 substantial precedent for my request." 7 A Yes. 8 Q First of all, at the time you received this 9 letter or that the firm received this letter in 10 April of 1992, did you know Jeffrey Schwartz or 11 Allen Rothenberg? 12 A I did not. 13 Q Does this letter suggest -- did this letter 14 suggest to you whether or not they were given 15 the same information that Mr. Martin was giving 16 to you? 17 MR. ASSAF: Objection. 18 Leading, foundation, form. 19 A I was certainly of the impression that they 20 were giving the same stuff to other attorneys. 21 Q And then does Mr. Martin describe what, if any, 22 decision they made with respect to their cases? 23 A And, by the way, the letter says, "The enclosed 24 documents were provided to Jeffrey Schwartz of 25 the Allen Rothenberg law firm." And it says,</p>	<p style="text-align: right;">Page 400</p> <p>1 This is a letter dated December 21, 1992 2 from Scott Martin to Dale Economus. 3 As you were working with Mr. Economus in 4 the asbestos cases, is this a letter you would 5 have seen? 6 A Yes. 7 Q And in the context of asking that the cases be 8 dismissed, does it reference "various 9 affidavits and other documents" sent to you 10 earlier? 11 A Yes. 12 Q And am I reading it correctly, that it says, 13 "documents forwarded to you with my previous 14 correspondence, talc produced by EMTal from 15 its sole mine and mill in Johnson, Vermont 16 contained no asbestos"? And that's underlined, 17 right? 18 A That's correct. 19 Q In the context of the correspondence that you 20 had received asking you to dismiss these cases, 21 what did you understand Mr. Martin was 22 conveying to you and Mr. Economus? 23 A He was clearly conveying that there was no 24 asbestos in Eastern Magnesia Talc and that, 25 therefore, we should dismiss Eastern Magnesia</p>
<p style="text-align: right;">Page 399</p> <p>1 "After this review, Mr. Schwartz voluntarily 2 dismissed Engelhard and Emtal from that 3 litigation." 4 So he's telling me that he gave the same 5 stuff to another law firm and they dismissed 6 Eastern Magnesia Talc and we should do the 7 same. 8 Q Right. And let me show you what has been 9 previously marked as Exhibit 127. 10 Do you recall receiving this letter from 11 Scott Martin? 12 A This looks familiar. Again, I believe that 13 this would have come in to Dale Economus. I 14 don't why there's -- it's addressed to 15 Mr. Economus, why there's no name on there, but 16 I believe that Dale Economus would have given 17 this to me, because I believe I was the one 18 that was talking with Scott Martin. 19 Q But did you or Mr. Economus misplace the 20 material that was sent to you under cover of 21 the April 23, 1992 letter? 22 A I don't think we misplaced it. I think we 23 reviewed it. 24 Q I want to show you what's been previously 25 marked as Exhibit 198.</p>	<p style="text-align: right;">Page 401</p> <p>1 Talc. 2 Q And in addition to receiving these letters, you 3 testified you had discussions with Mr. Martin 4 and Mr. Joslyn in that regard? 5 A Yes. 6 Q Did at any time anyone on behalf of Engelhard 7 make reference to any other testing that had 8 been done of Emtal's talc? 9 MR. ASSAF: Objection. 10 Foundation. 11 A No. Other than what they gave me, no. 12 Q In responses to any discovery, did Engelhard 13 make reference to -- or Engelhard and/or 14 Cahill -- strike that. 15 In responses to discovery served, did 16 Engelhard and/or Cahill make any reference to 17 any test results of Emtal talc other than what 18 had been provided to you in April of 1992? 19 A No. 20 Q Did you know in 1992 or in '93 of a scientist 21 employed at Engelhard named Hemstock? 22 A No. 23 Q Did you know of an Engelhard employee named 24 Peter Gale? 25 A Peter who?</p>

<p style="text-align: right;">Page 402</p> <p>1 Q Gale.</p> <p>2 A No.</p> <p>3 Q How about an employee named Triglius</p> <p>4 [phonetic]?</p> <p>5 A No.</p> <p>6 Q I want to go back to the letter, and I think it</p> <p>7 was 116 [sic]. It was dated February 22, 1993.</p> <p>8 Mr. Assaf asked about that.</p> <p>9 I have an extra copy. I don't know that</p> <p>10 it was marked.</p> <p>11 A I have it. 266?</p> <p>12 Q February 22.</p> <p>13 MR. McDERMOTT: Why don't you</p> <p>14 take a look at that.</p> <p>15 Q This is in response to your letter Mr. Assaf</p> <p>16 asked you about with regard to a report that</p> <p>17 you found from the Vermont Department of</p> <p>18 Health, correct?</p> <p>19 A Yes.</p> <p>20 Q And in the third paragraph of that letter, they</p> <p>21 write, "The conclusion derived from all of</p> <p>22 these studies is that the talc produced from</p> <p>23 this mine did not contain asbestos." And</p> <p>24 that's underscored, right?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 404</p> <p>1 geologist serve in reviewing asbestos cases?</p> <p>2 And I'm not just talking about talc, but</p> <p>3 generally.</p> <p>4 A I'm not certain what purpose a geologist would</p> <p>5 serve.</p> <p>6 Q Are there experts who you could consult with</p> <p>7 who could assess samples of a material to see</p> <p>8 if it contained asbestos?</p> <p>9 A Yes.</p> <p>10 Q What are those experts called?</p> <p>11 A I would call it a material scientist.</p> <p>12 Q Okay.</p> <p>13 A Is probably what I would call them.</p> <p>14 Q I want to show you what has been marked as</p> <p>15 Exhibit 7.</p> <p>16 This is an affidavit of Charles Carter</p> <p>17 dated September 20, 1988. It's attached in the</p> <p>18 April 23, 1992 letter from Mr. Martin to</p> <p>19 Mr. Economus. Do you recall seeing this</p> <p>20 affidavit?</p> <p>21 A I thought this was in that stack there.</p> <p>22 Yeah, it was in the -- it was attached to</p> <p>23 the April 23, 1992 letter from Mr. Martin to</p> <p>24 Mr. Economus.</p> <p>25 Q Okay. And in the context of being asked to</p>
<p style="text-align: right;">Page 403</p> <p>1 Q Okay. And then you pointed out the next</p> <p>2 sentence in this letter. Could you read that,</p> <p>3 please?</p> <p>4 A "The only analysis which we have not previously</p> <p>5 forwarded to you is one just completed by the</p> <p>6 RJ Lee Group which showed no evidence of</p> <p>7 asbestos minerals, nor of their nonfibrous</p> <p>8 analogs, and found the talc to be a platy</p> <p>9 nonfibrous variety."</p> <p>10 Q In the context of the letters that we've been</p> <p>11 looking at and the request to dismiss Engelhard</p> <p>12 because there's no -- because the Emtal did not</p> <p>13 contain asbestos, what did you understand this</p> <p>14 letter to mean with respect to whether there</p> <p>15 were other studies?</p> <p>16 A There was no other studies, that they gave me</p> <p>17 everything that they had, informed me of all of</p> <p>18 the studies that they had done, and all of the</p> <p>19 studies showed there was no asbestos in their</p> <p>20 talc.</p> <p>21 Q Mr. Assaf asked whether you had hired a</p> <p>22 geologist.</p> <p>23 In your experience as a lawyer</p> <p>24 representing people who are injured or die from</p> <p>25 asbestos-related diseases, what purpose would a</p>	<p style="text-align: right;">Page 405</p> <p>1 dismiss Emtal because its talc does not contain</p> <p>2 asbestos, what is this affidavit telling you,</p> <p>3 or how did you understand it?</p> <p>4 A That they're not selling Emtal anymore. And I</p> <p>5 thought another one indicated that it was</p> <p>6 flooded, that --</p> <p>7 Q I'm going to show you that in a minute.</p> <p>8 A That there was no more -- no way to get another</p> <p>9 sample to test.</p> <p>10 Q And that's where I'm going.</p> <p>11 This is Exhibit 8, also attached to that</p> <p>12 April 23 letter.</p> <p>13 A Yes.</p> <p>14 Q And again in the context of being asked to</p> <p>15 dismiss Engelhard because its talc does not</p> <p>16 contain asbestos, what information do you get</p> <p>17 from this affidavit signed by Mr. Carter on</p> <p>18 June 19, 1989?</p> <p>19 A That there would be no way to get a sample of</p> <p>20 Eastern Magnesia Talc to have it tested by a</p> <p>21 material science expert.</p> <p>22 Q Okay. And it gives two reasons for that in</p> <p>23 paragraph 4, correct?</p> <p>24 A They said it was closed, and as a consequence,</p> <p>25 it's presently filled with water, making it</p>

<p style="text-align: right;">Page 406</p> <p>1 impossible to obtain any samples of talc from 2 the mine. 3 Q Does Mr. Carter swear in his affidavit whether 4 there are or are not samples that could be 5 shared with counsel? 6 A He further states that "Engelhard does not 7 currently possess any samples of the talc 8 produced by this mine." 9 Q Okay. The third affidavit of Charles Carter, 10 this has been marked as -- previously as 11 Exhibit 6 and is dated August 18, 1989. 12 Have you seen this affidavit before? 13 A It -- I don't know this was attached to this, 14 the letter from Scott Martin or not. So I 15 don't know for sure. It looks familiar, but 16 I've got several other affidavits from 17 Mr. Carter. So I'm not certain of that, but I 18 think most likely. 19 MR. ASSAF: Objection. 20 Move to strike. Competency, foundation. 21 Q You were asked about whether there were other 22 studies. 23 Take a look at paragraph 3 and see 24 whether or not Mr. Carter references whether or 25 not Engelhard possesses any testing data other</p>	<p style="text-align: right;">Page 408</p> <p>1 you receive any testing data other than what 2 was in these letters that we've just been 3 describing? 4 A No. 5 Q Let me show you a letter from November 12, 2008 6 that's marked as 145. I thought Mr. Assaf 7 marked it today, but I could be wrong. 8 John Mismas is an attorney in your 9 office? 10 A He was an attorney in my office at the time. 11 Q And do you recall Mr. Mismas showing you a copy 12 of this letter? Have you seen this before? 13 A I believe so, yes. 14 Q And this is a letter from Jennifer Riester, who 15 is -- was representing Engelhard at the time? 16 A Yes. 17 Q Did Ms. Riester provide you with any additional 18 information regarding testing performed on 19 Emtal talc beyond that which you had received 20 up through 1993 and 1994? 21 A I don't believe so. And I'm looking -- she 22 lists what she provided and it included the 23 Ashton affidavit and the RJ Lee report. 24 Q And you were asked about the motion for summary 25 judgment that was filed in Graham. Do you</p>
<p style="text-align: right;">Page 407</p> <p>1 than what was sent under cover of the Ashton -- 2 or attached to the Ashton affidavit. 3 A He indicates that Engelhard does not currently 4 possess any testing data other than data 5 provided to you -- I don't know who "you" is -- 6 by way of the Ashton affidavit and the report 7 of Dr. Pooley. 8 Q And Dr. Pooley's report -- well, there's -- on 9 an August 23, 1992 letter from Scott Martin to 10 Mr. Economus, there is reference to a report of 11 Dr. Pooley. 12 Do you see that? 13 A Dated -- which letter? 14 Q The August 23 letter, 1992. 15 MR. McDERMOTT: April? April 16 23? 17 MR. ROTH: What did I say? 18 MR. McDERMOTT: August. 19 A Oh, April 23. 20 Q I apologize. 21 A Okay. Yeah, it references Dr. Pooley, yes, and 22 Charles Carter and William Ashton. 23 Q And with respect to the -- well, I'm sorry. 24 In the context of the cases you were 25 representing plaintiffs against Engelhard, did</p>	<p style="text-align: right;">Page 409</p> <p>1 recall that? 2 A Yes. 3 Q And I apologize for not having copies. Did the 4 judge write an opinion when summary judgment 5 was granted? 6 A I don't think so. I think that what counsel 7 gave me, it just had stamped "granted" on the 8 front, if I recall correctly, but let me see if 9 I can find that again. I'm not positive. One 10 of those it said -- it just said "granted." 11 MR. McDERMOTT: Here you go. 12 A Yeah, this says "granted" on the top. 13 MR. McDERMOTT: What number is 14 that, Tom? 15 THE WITNESS: This was 16 Defendants' Exhibit 42. 17 Q Just give me a minute while I dig through and 18 get my copy out. 19 All right. I'm sorry. I don't think I 20 have a copy of this. I don't think it was 21 produced. 22 A Yeah, and Defendants' Exhibit 261 is also 23 the -- the -- whatever the filing -- what do 24 you call it. A copy of it. It just says, 25 "Defendant's motion for summary judgment is</p>

<p style="text-align: right;">Page 410</p> <p>1 granted" there. I don't believe there was a</p> <p>2 written opinion.</p> <p>3 Q Right. And what I wanted to show you was the</p> <p>4 Defendant Eastern Magnesia Talc Company's reply</p> <p>5 to the plaintiff's brief in opposition. It had</p> <p>6 been previously marked as Exhibit 156.</p> <p>7 And there's a highlighted block here.</p> <p>8 What are the issues that Engelhard -- or</p> <p>9 Eastern Magnesia at the time moved for summary</p> <p>10 judgment in regard?</p> <p>11 MR. ASSAF: All of the</p> <p>12 issues, or the issues that you blocked?</p> <p>13 MR. ROTH: The issues in</p> <p>14 the flyer I think address all the issues.</p> <p>15 A It indicates, "As will be shown, none of this</p> <p>16 evidence creates a genuine issue of material</p> <p>17 fact as to whether the plaintiff was ever</p> <p>18 exposed to any talc sold by EMT, that any talc</p> <p>19 sold by EMT contained asbestos, or that any</p> <p>20 such talc was a substantial factor contributing</p> <p>21 to plaintiff's disease."</p> <p>22 Q Thank you. I'll take that back. I don't want</p> <p>23 to lose it.</p> <p>24 MR. ASSAF: I think I</p> <p>25 marked it.</p>	<p style="text-align: right;">Page 412</p> <p>1 apparently we dismissed also Clay Compton, Loyd</p> <p>2 Brown, and Mable Gonzalez at that time as well.</p> <p>3 Q In reaching the decision to voluntarily dismiss</p> <p>4 cases that you had filed against Engelhard,</p> <p>5 what information did you rely upon?</p> <p>6 A What was provided to me by the Cahill Gordon</p> <p>7 firm and Eastern Magnesia Talc.</p> <p>8 Q Have you tried other asbestos cases? And by</p> <p>9 "other asbestos," I mean other than talc cases</p> <p>10 which you've testified you did not try. Have</p> <p>11 you tried other asbestos injury cases?</p> <p>12 A Yes.</p> <p>13 Q How many?</p> <p>14 A Well, to verdict, probably five perhaps. I</p> <p>15 probably started another five and settled</p> <p>16 during the course of trial. Maybe ten settled</p> <p>17 during trial. And then of course you know,</p> <p>18 many, many, many cases that we were litigating</p> <p>19 that we settled during the course of the</p> <p>20 litigation.</p> <p>21 Q Is it fair to say that most of the cases,</p> <p>22 asbestos injury cases, settle, in your</p> <p>23 experience?</p> <p>24 A Oh, most cases settle, yes.</p> <p>25 Q Okay. Why don't we take a break for a minute.</p>
<p style="text-align: right;">Page 411</p> <p>1 MR. ROTH: I thought you</p> <p>2 did too, but I couldn't -- I thought you did</p> <p>3 too.</p> <p>4 MR. ASSAF: I did.</p> <p>5 A Yeah, I think it was marked.</p> <p>6 MR. ROTH: We can clean</p> <p>7 that up afterwards. My piles have piles right</p> <p>8 now.</p> <p>9 Q Mr. Bevan, did you ultimately dismiss,</p> <p>10 voluntarily dismiss, the Charles Williams case?</p> <p>11 A I believe so, yes.</p> <p>12 Q All right. Let me show you -- and we'll mark</p> <p>13 this as Bevan Exhibit 1.</p> <p>14 -----</p> <p>15 (Plaintiffs' Exhibit 1 was marked.)</p> <p>16 -----</p> <p>17 Q Just describe what this is, please.</p> <p>18 What is that series of documents?</p> <p>19 A I believe this is the cover letter transmitting</p> <p>20 our notice of voluntary dismissal of Engelhard</p> <p>21 from the Charles Williams case that was filed</p> <p>22 in federal court in the Northern District of</p> <p>23 Ohio.</p> <p>24 Q And in -- I'm sorry.</p> <p>25 A And by the way, also on the cover letter we --</p>	<p style="text-align: right;">Page 413</p> <p>1 THE VIDEOGRAPHER: Off the record.</p> <p>2 The time is 6:34.</p> <p>3 -----</p> <p>4 (Recess taken.)</p> <p>5 -----</p> <p>6 THE VIDEOGRAPHER: We're back on</p> <p>7 the record. The time is 6:42.</p> <p>8 BY MR. ROTH:</p> <p>9 Q This falls around the jump around category and</p> <p>10 I apologize.</p> <p>11 You were shown Defendants' Exhibit 135.</p> <p>12 I don't know whether you have it handy or not.</p> <p>13 A Well, if you can tell me what it is, I can --</p> <p>14 Q It was the motion for summary judgment filed in</p> <p>15 the Clark versus Owens Coming fiberglass case</p> <p>16 in front of Judge Victor in Summit County.</p> <p>17 A Yes, I have that.</p> <p>18 Q Okay.</p> <p>19 A 138?</p> <p>20 MR. PLACITELLA: 135.</p> <p>21 A Okay. Yes.</p> <p>22 Q Do you have that?</p> <p>23 A Yes, I have it.</p> <p>24 Q Okay. I believe you testified you weren't sure</p> <p>25 but you thought you won that motion for summary</p>

<p style="text-align: right;">Page 414</p> <p>1 judgment.</p> <p>2 I want to show you what we'll mark as</p> <p>3 Bevan Exhibit 2.</p> <p>4 -----</p> <p>5 (Plaintiffs' Exhibit 2 was marked.)</p> <p>6 -----</p> <p>7 Q Does this refresh your recollection of the</p> <p>8 outcome of this case?</p> <p>9 A This is what I recall. And I was correct, the</p> <p>10 court denied the motion for summary judgment on</p> <p>11 the Clark case, yes.</p> <p>12 Q Okay. And even though you won -- you defeated</p> <p>13 summary judgment in that case, you,</p> <p>14 nevertheless, refiled it in Cuyahoga County?</p> <p>15 A Yes.</p> <p>16 Q Not related to your victory in the summary</p> <p>17 judgment motion, I assume?</p> <p>18 A That was not a reason for me to dismiss the</p> <p>19 case.</p> <p>20 Q You were asked a couple of questions about the</p> <p>21 Raymark lawsuit against Stemple and others.</p> <p>22 You were not named as a defendant in that</p> <p>23 case?</p> <p>24 A No, I was not.</p> <p>25 Q And do you recall the outcome, with respect to</p>	<p style="text-align: right;">Page 416</p> <p>1 the break of a deposition.</p> <p>2 And the one instance I recall was</p> <p>3 Mr. Joslyn confronting me at the end -- or at a</p> <p>4 break of the John Nardella deposition. And I</p> <p>5 recall that one specifically because -- I still</p> <p>6 kind of laugh to this day when I recall,</p> <p>7 Mr. Nardella, who has since passed away and</p> <p>8 what he said about Mr. Joslyn when Mr. Joslyn</p> <p>9 walked away.</p> <p>10 Q What was the -- what was your understanding of</p> <p>11 what Mr. Joslyn thought was sanctionable in</p> <p>12 your conduct?</p> <p>13 A That I had no evidence and there was no</p> <p>14 evidence of asbestos in Eastern Magnesia Talc</p> <p>15 and, therefore, the claims against them,</p> <p>16 asbestos claims against them, were frivolous</p> <p>17 and sanctionable.</p> <p>18 Q You were questioned by Mr. Assaf about your</p> <p>19 filing of lawsuits against Engelhard or Eastern</p> <p>20 Magnesia after you got the information in 1992</p> <p>21 and '93.</p> <p>22 A Yeah.</p> <p>23 Q Have you been involved in cases where</p> <p>24 defendants, in terms of how cases develop,</p> <p>25 where defendants may develop evidence that you</p>
<p style="text-align: right;">Page 415</p> <p>1 your father and Mr. Economus?</p> <p>2 A I was told that they were dismissed. I don't</p> <p>3 recall ever reading any documents to that</p> <p>4 extent. I wasn't involved and it was over with</p> <p>5 by the time I became a law clerk, as far as I</p> <p>6 know, in May of 1989.</p> <p>7 Q Okay. And if there were published opinions to</p> <p>8 that effect, would you be surprised to learn</p> <p>9 that they were dismissed by federal judges?</p> <p>10 A That would confirm what they told me at the</p> <p>11 time, yes.</p> <p>12 Q Okay.</p> <p>13 A That would not surprise me.</p> <p>14 Q One of the things you mentioned regarding</p> <p>15 conversations you had with Mr. Martin and</p> <p>16 Mr. Joslyn was being threatened with sanctions.</p> <p>17 Tell us more about that, please.</p> <p>18 A Well, that would -- I repeatedly got threatened</p> <p>19 with sanctions, I believe more so by Mr. Joslyn</p> <p>20 than Mr. Martin. It was -- my recollection was</p> <p>21 that it was a kind of a good cop, bad cop thing</p> <p>22 and Mr. Martin was the good cop and Mr. Joslyn</p> <p>23 was the bad copy. And he would be quite</p> <p>24 aggressive and threatening with the sanctions,</p> <p>25 usually after a deposition was over or during</p>	<p style="text-align: right;">Page 417</p> <p>1 did not have about another defendant?</p> <p>2 A Yeah, certainly. And I know that the Owens</p> <p>3 Coming was trying to go that route as well.</p> <p>4 And that was what was happening in these cases.</p> <p>5 Owens Coming was aggressively trying to</p> <p>6 point the finger at the talc defendants and</p> <p>7 trying to establish a case against the talc</p> <p>8 defendants.</p> <p>9 And so, you know, I had no evidence that</p> <p>10 they had asbestos in their talc but, you know,</p> <p>11 I continued to try and I continued to be</p> <p>12 deceived by Eastern Magnesia Talc.</p> <p>13 Q In these cases that you filed, whether you were</p> <p>14 sent some product identification, that it was</p> <p>15 weak or exposure might be weak, were you ever</p> <p>16 sanctioned or were you ever the subject of a</p> <p>17 Rule 11, under whatever Ohio's Rule 11 motion</p> <p>18 practice is?</p> <p>19 MR. ASSAF: In the talc</p> <p>20 cases or any other case?</p> <p>21 Q In the talc cases.</p> <p>22 A No.</p> <p>23 Q Did Engelhard or anyone from Cahill question</p> <p>24 the diagnosis of your clients?</p> <p>25 A Not that I recall.</p>

<p style="text-align: right;">Page 418</p> <p>1 Q Let me show you -- and again this may have been 2 marked too and I apologize. It's Exhibit 131. 3 A I don't think this one was. 4 Q And this is a letter to you from Scott Martin 5 dated July 24, 1996? 6 A Yes. 7 Q In the context of requesting the voluntary 8 dismissal of the Strickland case, what is 9 Mr. Martin telling you about whether Emtal has 10 asbestos in it? 11 A He indicated there is no evidence whatsoever 12 that talc mined or milled by Emtal contained 13 asbestos. 14 Q I only mean to be a little bit glib, but do you 15 need to be a scientist or do you need a 16 scientist or did you need an expert in 1996 to 17 decipher what Mr. Martin meant when he wrote to 18 you that there is no evidence whatsoever that 19 talc mined and milled by Emtal contained 20 asbestos? 21 A It's clear what he meant. 22 Q I don't have any other questions. And I think 23 we're done. 24 MR. ASSAF: Whoa. Whoa. 25 Whoa. I have a couple.</p>	<p style="text-align: right;">Page 420</p> <p>1 MR. McDERMOTT: Objection. 2 MR. ROTH: Move to strike. 3 Q Well, is that not true? 4 A I think -- 5 MR. McDERMOTT: Objection. 6 A And I'm not sure what you mean by that. 7 Q You'd like to see the plaintiffs win this case? 8 A The plaintiffs should win this case -- 9 MR. McDERMOTT: Objection. 10 A -- yes. Absolutely. 11 Q In terms of showing product ID, one of the ways 12 you show it is from interrogatory responses 13 from the defendant, correct? 14 A Yes. 15 Q Sales records from the defendants, correct? 16 A Yes. 17 Q The sales -- or I'm sorry. The purchasing 18 records from facilities, for example, 19 BFGoodrich purchasing records, correct? 20 A If they exist, yes. 21 Q And you also show it through your own client 22 recollection by showing them pictures of 23 various products to see if they could identify 24 it -- 25 MR. ROTH: Asked and</p>
<p style="text-align: right;">Page 419</p> <p>1 MR. ROTH: You're at seven 2 hours. What are you -- 3 MR. ASSAF: I don't think 4 so. 5 MR. ROTH: Well, what was 6 the time before we went to plaintiffs' side? 7 THE VIDEOGRAPHER: He was at 6:51. 8 REEXAMINATION OF THOMAS W. BEVAN, ESQ. 9 BY MR. ASSAF: 10 Q Ready? 11 A Sure. 12 Q Mr. Roth asked you a bunch of questions about 13 how to prove product ID based on all of your 14 experience. Right? 15 MR. ROTH: Objection. 16 A He asked me a couple questions, sure. 17 Q By the way, you never had any problems 18 answering Mr. Roth's questions, did you? 19 MR. McDERMOTT: Objection. 20 A His questions were much more direct and simpler 21 than your questions. 22 MR. ROTH: Thank you very 23 much. 24 A They were better questions. 25 Q You would like to see Mr. Roth win, correct?</p>	<p style="text-align: right;">Page 421</p> <p>1 answered. 2 Q -- correct? 3 A Sometimes we show them pictures. Usually not. 4 Q And do you have any evidence -- withdrawn. 5 Over the 15 years you were litigating 6 with Emtal over product ID for its talc, did 7 you ever feel as though you weren't getting the 8 proper information from Emtal, in terms of 9 their sales records? 10 MR. McDERMOTT: Objection. 11 A As I sit here today, I don't believe I did. I 12 think they approached it that we had no 13 asbestos in our talc so we're not giving you 14 anything. 15 Q Okay. So prior to talking to Mr. Placitella in 16 2010, did you have any reason to believe that 17 you weren't getting the sales information from 18 Emtal that you were seeking? 19 A Prior to -- 20 MR. ROTH: Objection. 21 MR. McDERMOTT: Objection. 22 A Prior to the conversation with Mr. Placitella, 23 I had no reason to believe that Eastern 24 Magnesia wasn't being forthright. 25 Q And you got all the sales information you</p>

<p style="text-align: right;">Page 422</p> <p>1 requested?</p> <p>2 MR. McDERMOTT: Objection.</p> <p>3 A I don't know if I did. I don't -- I'm not</p> <p>4 certain that I did. I got sales records from</p> <p>5 C.P. Hall that showed sales of Eastern Magnesia</p> <p>6 Talc. Whether I got anything from Eastern</p> <p>7 Magnesia, I'm not certain that I did.</p> <p>8 Q You never got interrogatory responses?</p> <p>9 A I'm sure I got interrogatory responses that</p> <p>10 said there's no asbestos and we're not</p> <p>11 answering anything else.</p> <p>12 Q Did you ever move to compel responses for</p> <p>13 Eastern Magnesia Talc for product ID?</p> <p>14 A I think I tried to work with them. I talked</p> <p>15 with them and they gave me what they gave me</p> <p>16 and, you know, insisted that there was no</p> <p>17 asbestos in their talc and I believed them.</p> <p>18 Q Did you ever move to compel, Mr. Bevan, yes or</p> <p>19 no?</p> <p>20 A I don't recall.</p> <p>21 Q Will you come to New Jersey for a class</p> <p>22 certification hearing?</p> <p>23 A If requested I will.</p> <p>24 Q Okay. Mr. Allen Rothenberg, did you ever talk</p> <p>25 to him regarding talc cases?</p>	<p style="text-align: right;">Page 424</p> <p>1 contained asbestos was false?</p> <p>2 MR. ASSAF: Objection.</p> <p>3 Beyond the scope.</p> <p>4 MR. ROTH: Absolutely not.</p> <p>5 A I did not know that.</p> <p>6 Q Before learning that there were test results</p> <p>7 done by or on behalf of Emtal or Engelhard that</p> <p>8 showed that Emtal talc contained asbestos, did</p> <p>9 you know that Mr. Martin's statement to you</p> <p>10 that the only analysis which we have not</p> <p>11 previously forwarded to you other than the</p> <p>12 Ashton and Carter affidavits and the Pooley</p> <p>13 report is one completed by the RJ Lee Group</p> <p>14 which showed no evidence of asbestos mineral,</p> <p>15 did you know that statement was false?</p> <p>16 MR. ASSAF: Objection.</p> <p>17 Leading and beyond the scope.</p> <p>18 A No, not until I talked to Mr. Placitella.</p> <p>19 Q Do you know -- do you know today whether or not</p> <p>20 Engelhard's scientists had testified at</p> <p>21 deposition in 1983 and verified findings that</p> <p>22 showed that Emtal contained asbestos?</p> <p>23 MR. ASSAF: Objection.</p> <p>24 Beyond the scope and leading and foundation.</p> <p>25 A The extent of what I know is what was told to</p>
<p style="text-align: right;">Page 423</p> <p>1 A I don't think I've ever had a conversation with</p> <p>2 Allen Rothenberg.</p> <p>3 Q And did you have any conversations with anybody</p> <p>4 outside of Ohio regarding the talc cases, any</p> <p>5 other plaintiffs lawyer?</p> <p>6 A With respect to this class action or with</p> <p>7 respect to --</p> <p>8 Q With respect to the reasons you dismissed</p> <p>9 Engelhard.</p> <p>10 A No.</p> <p>11 MR. McDERMOTT: Objection.</p> <p>12 A I don't think so.</p> <p>13 Q No more questions.</p> <p>14 REEXAMINATION OF THOMAS W. BEVAN, ESQ.</p> <p>15 BY MR. ROTH:</p> <p>16 Q Before learning that when Scott Martin said</p> <p>17 there was no evidence whatsoever that talc</p> <p>18 mined and milled by Emtal contained asbestos --</p> <p>19 I'm sorry. Strike that.</p> <p>20 Before learning that there were test</p> <p>21 results conducted by or on Engelhard's behalf</p> <p>22 about Emtal talc that were positive for</p> <p>23 asbestos, did you know that Scott Martin's</p> <p>24 statement to you that there's no evidence</p> <p>25 whatsoever that talc mined and milled by Emtal</p>	<p style="text-align: right;">Page 425</p> <p>1 me by Mr. Placitella and what I've read in that</p> <p>2 complaint. If it was that level of detail, I</p> <p>3 don't recall. I think I heard that level of</p> <p>4 detail, but I don't recall for sure.</p> <p>5 Q No further questions.</p> <p>6 MR. ASSAF: Recross.</p> <p>7 FURTHER EXAMINATION OF THOMAS W. BEVAN, ESQ.</p> <p>8 BY MR. ASSAF:</p> <p>9 Q Regarding your responses to Mr. Roth's</p> <p>10 questions right now, your position that Cahill</p> <p>11 did something wrong is based solely on your</p> <p>12 conversations with Mr. Placitella and documents</p> <p>13 written by Mr. Placitella?</p> <p>14 MR. McDERMOTT: Objection.</p> <p>15 MR. ROTH: Objection.</p> <p>16 A I wouldn't say solely.</p> <p>17 Q Primarily?</p> <p>18 MR. McDERMOTT: Objection.</p> <p>19 A I wouldn't say primarily. I would say half of</p> <p>20 it was based on what Mr. Martin and what</p> <p>21 Mr. Joslyn said to me in writing, said to Dale</p> <p>22 Economus in writing, what they said to me</p> <p>23 orally. That's half of it. The other half is</p> <p>24 the truth, which is what Mr. Placitella told</p> <p>25 me.</p>

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<p style="text-align: right;">Page 426</p> <p>1 Q Your testimony of what the truth is is based 2 solely on Mr. Placitella, correct? 3 MR. McDERMOTT: Objection. 4 MR. ROTH: Objection. 5 MR. McDERMOTT: Asked and 6 answered. 7 A Yeah, I have not -- I don't know that I've seen 8 any documents. I don't recall that he gave me 9 any documents to this extent. I know there's 10 documents that are at issue, as to whether or 11 not I will at some point be allowed to see 12 them, but I have to rely upon what 13 Mr. Placitella -- 14 Q If Mr. Placitella's rendition of the facts and 15 recitation of the facts is wrong, then you're 16 wrong? 17 MR. McDERMOTT: Objection. 18 MR. ROTH: Objection. 19 A Well, it depends on in what way they're wrong. 20 Q No more questions. 21 MR. McDERMOTT: We'll read. 22 THE VIDEOGRAPHER: Off the record. 23 The time is 6:57. 24 ----- 25 (Deposition was concluded at 6:57 p.m.)</p>	<p style="text-align: right;">Page 428</p> <p>1 THE STATE OF OHIO,) SS: 2 COUNTY OF CUYAHOGA.) 3 4 I, Sarah R. Drown, a Registered Professional 5 Reporter and Notary Public within and for the State 6 of Ohio, duly commissioned and qualified, do hereby 7 certify that THOMAS W. BEVAN, ESQ., was first duly 8 sworn to testify the truth, the whole truth and 9 nothing but the truth in the cause aforesaid; that 10 the testimony then given by him was by me reduced to 11 stenotypy in the presence of said witness, 12 afterwards transcribed on a computer/printer, and 13 that the foregoing is a true and correct transcript 14 of the testimony so given by him as aforesaid. 15 I do further certify that this deposition was 16 taken at the time and place in the foregoing caption 17 specified. I do further certify that I am not a 18 relative, counsel or attorney of either party, or 19 otherwise interested in the event of this action. 20 IN WITNESS WHEREOF, I have hereunto set my hand 21 and affixed my seal of office at Cleveland, Ohio, on 22 this 18th day of May, 2018. 23 24 Sarah R. Drown, RPR, Notary Public 25 within and for the State of Ohio My Commission expires April 22, 2022.</p>
<p style="text-align: right;">Page 427</p> <p>1 ----- 2 (Signature reserved.) 3 ----- 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 429</p> <p>1 THE STATE OF) 2) SS: 3 COUNTY OF) 4 5 6 Before me, a Notary Public in and for said 7 state and county, personally appeared the 8 above-named THOMAS W. BEVAN, ESQ., who acknowledged 9 that he did sign the foregoing transcript and that 10 the same is a true and correct transcript of the 11 testimony so given. 12 IN TESTIMONY WHEREOF, I have hereunto affixed 13 my name and official seal at 14 this day of 15 , 2018. 16 17 18 19 THOMAS W. BEVAN, ESQ. 20 21 Notary Public 22 My Commission expires: 23 24 25</p>

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